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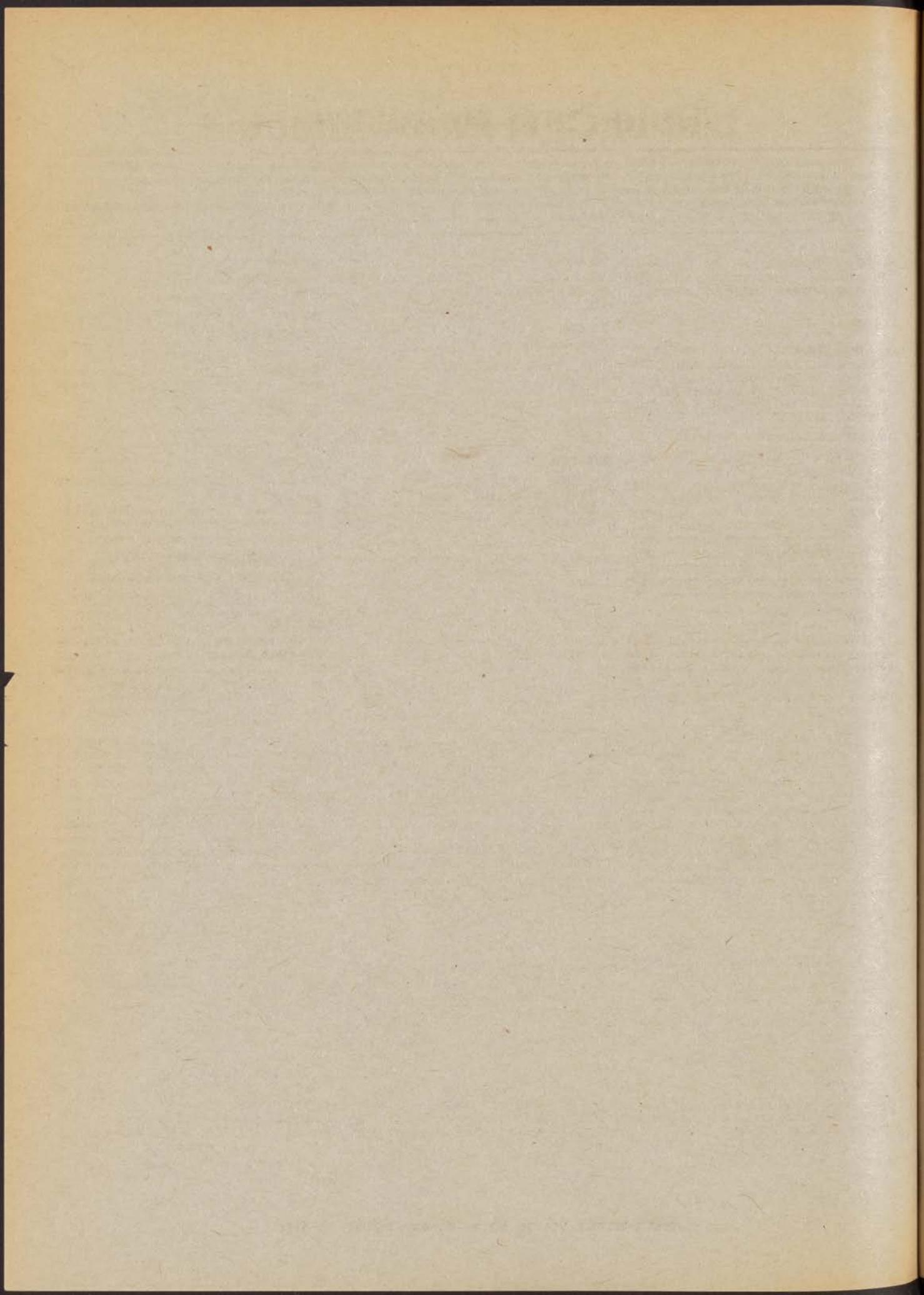
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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

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

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

PART 818—IMPORT QUOTAS ON SWEETENED CHOCOLATE, CANDY, AND CONFECTIONERY COVERED BY TSUS 156.30 AND 157.10 OF PART 10, SCHEDULE 1, OF THE TARIFF SCHEDULES OF THE UNITED STATES

Sugar Containing Products

On page 33400 of the FEDERAL REGISTER of December 4, 1973, there was published a proposed regulation which would establish import quotas on sweetened chocolate (other than in bars or blocks of 10 pounds or more each), candy, and confectionery for the calendar year 1974. Interested persons were given until December 19, 1973, to submit written data, views, or arguments for consideration in connection with the proposal.

No views or comments were received relative to the proposed regulation.

The proposed regulation is adopted without change and Part 818 of Subchapter B of Chapter VIII of Title 7 of the Code of Federal Regulations is revised by adding new §§ 818.20 through 818.24 as set forth below.

Effective date. In order to promote orderly marketing it is essential that persons selling and importing sweetened chocolate, candy, and confectionery be able as soon as possible to make plans based on the import quota for such products for calendar year 1974. Therefore, it is hereby determined and found that compliance with the effective date requirements of 5 U.S.C. 553 is unnecessary, impracticable, and contrary to the public interest and this amendment shall be effective January 14, 1974.

Signed at Washington, D.C., on January 8, 1974.

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

| | |
|--------|---|
| Sec. | |
| 818.20 | Confectionery quotas for foreign countries. |
| 818.21 | Import requirements. |
| 818.22 | Restrictions on importation. |
| 818.23 | Revision of quota. |
| 818.24 | Delegation of authority. |

AUTHORITY: 818.20 to 818.24 issued under Sec. 206, 403; 61 Stat. 927, as amended, 932, as amended; (7 U.S.C. 1116, 1163).

§ 818.20 Confectionery quotas for foreign countries, 1974.

(a) For the calendar year 1974, the quantity of sweetened chocolate, candy, and confectionery provided for in items 156.30 and 157.10 of Part 10, Schedule 1, of Tariff Schedules of the United States which may be entered, or withdrawn from warehouse, for consumption in the United States and Puerto Rico is 189,651,650 pounds. Of the total quota 21,680,000 pounds are reserved solely for the importation of sweetened chocolate for other than consumption at retail as candy or confectionery (TSUS item 156.3040). This quantity is subject to quotas established pursuant to section 22 of the Agricultural Adjustment Act, as amended (items 950.15 and 950.16 of Part 3 of the Appendix to TSUS), and may be imported only under licenses issued pursuant to regulations of the Administrator, Foreign Agricultural Service, U.S. Department of Agriculture as follows: Ireland—13,200,000 (9,450,000 under TSUS 950.15 and 3,750,000 under TSUS 950.16); United Kingdom—8,380,000 (7,450,000 under TSUS 950.15 and 930,000 under TSUS 950.16) and Netherland—100,000 (all under TSUS 950.15).

Of the remaining quantity of 167,981,650 pounds (189,651,650—21,680,000) a quantity not to exceed 117,587,155 pounds may be entered or withdrawn from warehouse for consumption in the United States and Puerto Rico on or before September 30, 1974.

(b) The quota established by paragraph (a) of this section shall not apply to articles with an aggregate value of \$25 or less in any shipment.

§ 818.21 Import requirements.

Articles subject to quota limitations pursuant to § 818.20 shall be entered on a first-come, first-served basis under the control of the Bureau of Customs, except articles subject to quotas established pursuant to section 22 of the Agricultural Adjustment Act, as amended.

§ 818.22 Restrictions on importations.

Subject to the exception in § 818.20 (b) all persons are prohibited from entering or withdrawing from warehouse, for consumption in the United States and Puerto Rico any article provided for in TSUS items 156.30 and 157.10 after the applicable quotas set forth in § 818.20 (a) have been filled.

§ 818.23 Revision of quotas.

The quota established under this order may be revised to reflect the substitution

of revised or corrected data used in the quota determination.

§ 818.24 Delegation of authority.

The Director of the Sugar Division (or any person in such division designated by the Director) of the Agricultural Stabilization and Conservation Service of the Department is hereby authorized to act on behalf of the Secretary in administering §§ 818.20 through 818.22 except as otherwise provided for in §§ 818.20 and 818.21.

[FR Doc.74-964 Filed 1-11-74;8:45 am]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 73-1824]

PART 563—OPERATIONS

Premiums, Charges, and Credits

DECEMBER 14, 1973.

The Federal Home Loan Bank Board considers it advisable to amend § 563.23-1 of Part 563 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 563) in several respects. Accordingly, the Board hereby revises paragraphs (a), (f) and (g) (4) of said § 563.23-1 to read as set forth below, effective January 14, 1974.

Paragraph (a) of § 563.23-1 is revised in order to increase from seven years to ten years the period for amortization of premiums paid in connection with the acquisition of a mortgage loan.

Paragraph (f) of § 563.23-1, which permits insured institutions to recognize profit upon the sale of real estate owned only to the extent that the profit is realized in cash, is revised to eliminate the requirement to defer profit in a credit sale of real estate owned by an insured institution in the case of insured loans and guaranteed loans, since the collectibility of such loans is assured.

Paragraph (g) (4) of § 563.23-1, which defines "acquisition credit subject to deferral," is revised in two respects. First, § 563.23-1 (g) (4) (ii) is amended to increase from \$100 to \$200 the amount of an acquisition credit as defined in § 563.23-1 (g) (3) which may be taken into current income if the insured institution uses its own employees to perform appraisal services or to perform attorney or closing functions for which no escrow fee is received.

Paragraph (g) (4) is further revised by the addition of three sentences at

the end of the subparagraph which provide for an additional item which may be included in current income. Under the new provision, a fee received for a bona fide forward loan commitment contract may be taken into current income up to a certain amount and under certain conditions: the fee must be a payment for an actual future commitment, and for that commitment alone; it must be non-refundable; and it must be paid in cash (which would not include, for example, a post-dated check). A loan commitment fee which meets these conditions may be taken into current income in the following amount: one percent of a 6-to-12-month commitment, one and one-half percent of a 12-to-18-month commitment, or two percent of a longer commitment.

The addition to § 563.23-1(g) (4) further provides that if a loan upon which a qualified commitment fee was taken into current income is closed prior to the end of its contract term, the institution must make compensating accounting entries to credit to a deferred income account an appropriate portion of the fee, based on the schedule provided. For example, if a two percent fee had been taken into current income for a two year (24 month) loan commitment and the loan was closed after six months, one percent of the original loan commitment fee would have to be removed from the current income account and credited to a deferred income account, except to the extent that such amount could be included in current income under § 563.23-1(g) (4) (i) and (ii). The last sentence of the new provision requires record maintenance of commitment contracts and commitment fees.

Since the above amendments relieve restriction, the Board hereby finds that notice and public procedure with respect to said amendments are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b).

§ 563.23-1 Premiums, charges, and credits with respect to mortgage loans; sale of real estate owned; and related items.

(a) *Purchase at a premium.* A premium paid by an insured institution in connection with the acquisition of a mortgage loan may be charged off when paid or may be capitalized. If the premium is capitalized, it shall be amortized by charges to expense, at least semiannually, using any approved method of amortization, over a period not in excess of the remaining term of the loan, or 10 years, whichever is less, in the case of a single loan, or over a period not in excess of the average remaining term of the loans, or 10 years, whichever is less, in the case of a group of loans.

(f) *Sale of real estate owned.* When an insured institution sells real estate owned by it, such institution's records shall disclose the book value of such real estate at the time of such sale and the price at which it was sold. If such sale results in a loss, such loss shall be charged to expense, reserves, undivided profits,

or surplus during the accounting period in which such loss was sustained. If such sale results in a profit, such part of the profit as is not received by the institution in cash at the time of sale shall be deferred and credited to an account descriptive of unearned profit on real estate sold; thereafter such unearned profit shall be deemed to have been realized to no greater extent than is equivalent to the reduction of the unpaid balance of the sale contract or purchase money mortgage, unless it is an insured loan or a guaranteed loan, in which case profit may be realized at the time of such sale. In the event that real estate sold is reacquired by the institution as a result of cancellation of the contract, foreclosure, or conveyance of title to the institution, the book value of the reacquired real estate at such time shall not exceed an amount equal to the unpaid balance of the contract or loan after deduction of unearned profit, if any, remaining deferred at the time of reacquisition by an insured institution of any real estate.

(g) *Definitions.* For the purpose of this section:

(4) The term "acquisition credit subject to deferral" means the amount of an acquisition credit in excess of

- (i) The greater of:
 - (a) Fifty dollars, or
 - (b) Two percent of the amount of the loan, if the loan or commitment is for the purpose of construction, or
 - (c) One percent of the amount of the loan, if the loan or commitment is for any other purpose; plus
- (ii) Two hundred dollars, if, with respect to the loan, the insured institution uses its own employees to perform appraisal services or to perform attorney or closing functions for which no escrow fee is received.

In addition to the amounts which may be taken into current income under the foregoing provisions of this paragraph (g) (4), a nonrefundable fee received in cash as consideration for and at the time of execution of a bona fide forward loan commitment contract may be taken into current income, at the time of its receipt, in the following amount: one percent of such a loan commitment which will be outstanding for a 6 to 12 month term prior to the closing of the loan; one and one-half percent of a loan commitment which will be outstanding for a 12 to 18 month term prior to the closing of the loan; or two percent of a loan commitment which will be outstanding for a term exceeding 18 months prior to the closing of the loan. If a loan upon which there is such a loan commitment contract is closed prior to the expiration of its contract term, the institution by appropriate accounting entries shall remove from current income and credit to an account descriptive of deferred income an appropriate amount (based on the foregoing formula) of the fee previously received and recorded as provided in the preceding sentence. Insured institutions shall keep records of forward loan commitment contracts and fees for such commitments which are

received by it and are (1) taken into current income or (2) credited to deferred income.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.74-1011 Filed 1-11-74; 8:45 am]

Title 14—Aeronautics and Space
CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER D—SPECIAL REGULATIONS

[Regulations SPR-73; Amdt. 4]

PART 372a—TRAVEL GROUP CHARTER

Charter Air Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

By SPR-66,¹ the Board made various interpretative and technical amendments to its Travel Group Charter (TGC) rule (14 CFR Part 372a). Among these amendments was the addition to § 372a-26 of a provision explicitly precluding direct carriers from filing any charter tariff which would have the effect of changing the rates set forth in a TGC option or proposed charter contract previously filed with the Board, pursuant to § 372a.22.

The TGC thus became the only type of charter governed by our rules in which the charterer is assured that the price set forth in his charter contract is the rate which will be the lawful rate applicable to his flight, as embodied in the carrier's tariff which will be in effect when the flight is performed. In the absence of the special provision so added to the TGC rule, the TGC participants would be in the same position as all other charterers under our rules, i.e., regardless of the price specified in a charter contract, the rates or fares set forth in a carrier's tariff in effect at the time a charter flight is actually performed are the lawful rates which the carrier is required to receive, under section 403(b) of the Federal Aviation Act.²

The Board's principal reason for barring any change of charter price subsequent to the time when a proposed TGC price has been filed with the Board was to preclude TGC flight cancellations necessitated by intervening charter price changes. The built-in inflexibility of the contractual arrangements surrounding the TGC—an inflexibility which in turn stems largely from the basic concept of

¹ Adopted and effective, March 6, 1973; 38 FR 6379, March 9, 1973.

² 49 U.S.C. 1373(b). All of our charter rules, other than the TGC rule, presently include a provision implementing this statutory requirement. (See, for example, §§ 207.13(a), 208.32(b), 212.10(a), 214.14(a), 373.14 and 373.15.) However, there is now pending before the Board a proposal to amend these other charter rules so as to add the same provision which we have added to our TGC. EDR-243/SPDR-32, dated April 24, 1973, 38 FR 10462.

our TGC rule³—generally militates against providing in our TGC rules for revisions of TGC arrangements already made. As applied to the possibility of changes in the charter price, for example, the Board continues to believe that it would not be feasible or realistic to expect the individual members of a TGC group to unanimously give their express assent to a higher charter price than that which they had originally agreed to pay. At the same time, we continue to be extremely apprehensive of the obvious abuses which could be perpetrated on the traveling public were we to fashion a TGC rule which would enable a charter organizer, acting as agent for the TGC participants, to agree to contractual changes which would be binding on them without first obtaining their express consent. Consequently, if our TGC rule were to permit a different charter price to become the lawful rate applicable to a planned TGC flight, then there would be no alternative but to cancel the flight.

Since, as explained, the total charter price to the TGC group is not subject to change, the only risk of a price increase to the individual participant is that his pro rata share of the total price may rise from the "minimum pro rata price" to the "maximum pro rata price," which could be up to 20% higher.⁴ The sole contingency which may cause the individual's pro rata price to increase, under the existing rule, is the default by his fellow participants in meeting their obligations to pay their pro rata share.⁵

The Board is now persuaded, in light of the experience gained during the first full year of TGC operations, that the impossibility of revising the terms of a TGC contract, regardless of the reasonableness of the revision, has been one of the factors in the relative lack of success of the TGC experiment.⁶ Moreover, the need to improve the marketability of TGC's has become particularly pressing as a result of the fuel shortage and the concomitant rise in the cost of fuel. We fear that our TGC experiment could be seriously impeded unless the TGC rule is amended to provide some needed flexibility. Otherwise, carriers will completely shy away from TGC's, since they will understandably be reluctant to commit themselves to perform charters at a price unalterably fixed many months in advance, thereby assuming the entire risk of absorbing any intervening rise in their costs, however substantial, such as may reasonably

be anticipated to occur with respect to fuel.⁷

The Board has therefore determined to introduce a slight variation into the TGC arrangements permitted under our rules. In order to make TGC's somewhat more attractive to carriers in this period of sharply rising operating costs, especially fuel, our rules will now enable the charter participants to agree in the charter contract to assume a portion of the risk that a carrier's subsequent increased costs might justify an increased charter rate to become effective by the time the flight is performed.⁸ The monetary risk contractually assumed by the individual TGC participant will continue to be limited, as it has been heretofore, to a maximum increase of 20% above the minimum pro rata price. However, whereas defaults have until now constituted the only contingency which could cause the pro rata price to rise, the amended rule will permit the pro rata price to rise on either or both of two contingencies—defaults and charter tariff rate increase. In addition, a TGC organized under a contract containing the provision authorized by this amendment will be subject to the risk of cancellation in the event that the increased pro rata price resulting from either or both contingencies exceeds the specified maximum pro rata price.

Finally, in order to prevent undue hardships which could result from allowing an increased tariff rate to become applicable to previously executed TGC contracts, so as to cause either an increased pro rata price or a charter cancellation shortly before the scheduled date of flight departure, we shall continue to flatly prohibit any applicability to TGC's of tariffs which become effective during the 60 days preceding flight departure.

The within rule will apply only prospectively, that is, to TGC programs which will henceforth be filed. We think it clear that the within amendment in no way affects the charterworthiness of TGC's, and indeed imposes no substantial burden on anyone; rather, it constitutes a technical regulatory revision enabling TGC contractual arrangements to be somewhat more flexible. The Board therefore finds that notice and public procedure hereon are not necessary and that it may be made effective immediately.

It should be emphasized that the contractual provision authorized by this amendment is purely permissive. However, if the provision is to be included in a charter contract, then the effect thereof must be specifically brought to the atten-

tion of prospective TGC participants,⁹ as an additional contingency which may result in either increasing the pro rata price up to the specified maximum, or cancellation of the TGC, as explained hereinabove.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 372a of the Special Regulations (14 CFR Part 372a), effective January 7, 1974, as follows:

1. Amend paragraph (c) of § 372a.14, the amended paragraph to read as follows:

§ 372a.14 Pro rata charter price; minimum, maximum, adjusted.

(c) The adjusted pro rata charter price shall reflect the pro rata increase resulting from defaults in payments by participants, refunds made to participants pursuant to § 372a.15(g), and, if the contract so provides, an increase in the total charter price to the extent permitted under § 372a.26.

2. Amend paragraph (a) of § 372a.15, the amended paragraph to read as follows:

§ 372a.15 Full payment of charter price; refunds.

(a) No later than 60 days prior to the scheduled date of flight departure, there shall be due from each charter participant full payment of the minimum pro rata charter price, together with full payment of the pro rata share of any increase in the total charter price, to the maximum extent permissible under § 372a.26, as embodied in a tariff which has by that time become effective, or which has been duly filed with the Board bearing an effective date no later than 60 days prior to the scheduled date of flight departure. The contract between the participants and the organizer may also provide for the payment at the same time of a pro rata reserve deposit which shall be applied, as needed, toward payment of any adjustment in pro rata charter price resulting from defaults in payments by participants and refunds to participants pursuant to paragraph (g) of this section: *Provided, however,* That the total sum of the minimum pro rata charter price plus such reserve deposit, together with the pro rata share of any increased charter price which has become due, as described hereinabove, shall not be greater than the maximum pro rata charter price: *And provided further,* That any portion of such reserve deposit as is not needed, or any portion of such pro rata share of an increased charter price received with respect to a tariff which has not been permitted by the Board to become effective by the 60th

⁹ The Statement of Charges required by § 372a.28 is being amended to include such specific notice and thus the notice will also have to be included in the contract between the organizer and participants, pursuant to § 372a.29 (b).

³ The basic concept is that a group of 40 or more persons is formed, a number of months before flight departure, for the purpose of sharing the cost of a chartered flight.

⁴ Section 372a.14 (a) and (b).

⁵ If the increase in pro rata price resulting from defaults exceeds the 20% maximum, then the TGC must be canceled. Sections 372a.15 (d), 372a.28.

⁶ Our records indicate that fewer than 50,000 passengers have been carried on TGC flights in 1973, as compared with the most conservative forecasts estimating that there would be 200,000 TGC passengers this year.

⁷ Under our existing TGC rule, a charter contract may reserve the carrier's right to cancel a flight because of fuel unavailability but not because of the increased cost of fuel.

⁸ It must be noted that we are providing herein only for such price increases as may become embodied in tariffs which the Board will have permitted to become effective, in light of changes in circumstances which have occurred since the effective date of the lawful tariff which embodied the original TGC price.

day prior to the schedule date of flight departure, shall be forthwith refunded pro rata.

3. Amend § 372a.26 to read as follows:
 § 372a.26 Prohibition on operations unless tariffs are observed.

No charter organizer shall charter aircraft to provide air transportation to charter participants, and no direct air carrier shall operate such aircraft, except in accordance with the rates, fares, and charges and all applicable rules, regulations, and other provisions for such transportation as set forth in the currently effective tariff or tariffs of the direct air carrier transporting charter participants; and no such organizer shall demand, collect, accept, or receive, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, any portion of the rates, fares, or charges so specified in the tariffs of such direct air carrier, and shall not demand, accept, or receive, either directly or indirectly, any privilege, service, or facility except those specified in the currently effective tariffs of such air carrier: *Provided, however*, That no direct air carrier shall file a tariff which has the effect of changing the charter price specified in any option or proposed charter contract previously filed under § 327a.22; except that, if so provided in an option or proposed charter contract filed after January 7, 1974, a direct air carrier may subsequently file a tariff which will have the effect of changing, no later than 60 days prior to the scheduled date of flight departure, the pro rata charter price, but the effect of such change shall be limited either (i) to cause or be a factor in causing the pro rata charter price to increase up to a maximum of 20 percent over the minimum pro rata charter price, or (ii) if the increase is more than 20 percent, to require cancellation of the TGC.

4. Amend paragraph (a) of § 372a.28, the amended paragraph to read as follows:

§ 372a.28 Statements of charges.

(a) Any announcement, statement, or solicitation material to prospective charter participants giving price per seat shall state that the price is dependent upon the number of seats sold, and shall also set forth the minimum and maximum pro rata charter price, as well as the service charge. It shall also state that the minimum pro rata charter price is subject to an increase of no more than 20 percent as a result of either defaults by participants, or, where the contract so provides, a subsequent increase in the charter price in the documents filed under § 372a.22, or both, and that the charter will be canceled if the pro rata charter price increases by more than 20 percent over the minimum pro rata charter price. The cost of ground arrangements, if any, shall be stated separately.

5. Amend Appendix A to read in part as follows:

DESCRIPTION OF TRAVEL GROUP CHARTERS

Pro rata charter price. The "minimum pro rata charter price," * * *

If all the seats intended for participants are sold,³ fully paid for, and no refunds are made, then the minimum pro rata charter price will be the actual price which each charter participant will pay, unless the total charter price is increased by application of a new tariff. However, if the total charter price is increased, or if a participant defaults (or refund is made because of the death or illness of a participant) then the pro rata price of each remaining participant must be increased accordingly. In order to limit the liability of the remaining participants for an increase in the pro rata charter price, the Board has provided for a "maximum pro rata charter price," which is 20 percent more than the minimum. The minimum pro rata charter price, together with the pro rata share of any lawful increase of the total charter price, must be paid in full by each charter participant no later than the 60th day before the scheduled date of flight departure. The charter organizer must determine, no later than 45 days before the scheduled departure date, whether pro rata shares of the lawfully increased charter price, defaults and refunds would result in increasing each remaining participant's share beyond the "maximum." If they would, then the charter must be canceled; otherwise each remaining participant must pay the increased "adjusted pro rata price."⁴

Cancellations and refunds. * * *

B. If a TGC is canceled because, as a result of a lawful increase of the total charter price, defaults or refunds, the adjusted pro rata price would have to be increased beyond the maximum, then each participant not in default is entitled to a full refund. Those participants whose defaults necessitated the cancellation are entitled to have refunded only payments in excess of their initial 25 percent deposit; but the 25 percent deposit itself may be retained as liquidated damages for the organizer and/or the air carrier. (Death or illness of a participant before the adjusted pro rata price is computed does not constitute a default and, in such cases, full refund is to be made.)

6. Amend Appendix C, to read in part as follows:

POST-FLIGHT ACCOUNTING REPORT

3. Reconciliation of price computations:

(a) minimum pro rata charter price * * *

(b) maximum * * *

(b-1) pro rata share of increased total charter price, if any.

(c) participant's tentative * * *

(Secs. 101(3), 204(a), 401, 402 and 416(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 737 (as amended), 743, 754 (as amended), 757 and 771; 49 U.S.C. 1301, 1324, 1371, 1372 and 1386.)

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc. 74-997 Filed 1-11-74; 8:45 am]

³ If not all * * *
⁴ Once this * * *

Title 15—Commerce and Foreign Trade
 CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION,
 DEPARTMENT OF COMMERCE

SUBCHAPTER B—EXPORT REGULATIONS
 [13th Gen. Rev., Export Regs. Amdt.]

EXPORT REGULATIONS CERTIFICATES

Part 374, 375, and 386 of the Code of Federal Regulations are amended as set forth below.

PART 374—REEXPORTS

Exporters who, under the permissive reexports provisions of § 374.2(g), reexported commodities to an authorized destination under an unused outstanding validated export license were previously required to provide in letter form full details of the reexport. The purpose of this revision is to relieve exporters of the requirement to submit this separate letter and to standardize the procedure for reporting both exports and reexports, regardless of whether the validated license is wholly or only partially used.

Effective date of action: January 14, 1974.

Accordingly, § 374.2(g) of the Export Administration Regulations is amended to read as follows:

§ 374.2 Permissive reexports.

(g) Reexports to a destination to which direct shipment from the United States is authorized under an unused outstanding validated export license. Such reexports shall be reported on the reverse side of the license document, in the same manner exports are reported, regardless of whether the license is partially or wholly used for reexport purposes. The spaces marked "Name of Exporting Carrier" and "Port of Export or Post Office of Mailing," however, shall be used to indicate that the commodity was reexported and to enter the name and location of the firm from which the commodity was reexported.

§ 374.6 [Deleted]

Section 374.6 is deleted.

PART 375—DOCUMENTATION
 REQUIREMENTS

In line with the Department's continuing efforts to reduce documentation requirements, the Export Administration Regulations have been revised so that fewer export license applications now must be supported by single transaction International Import Certificates and Single Transaction Statements by Consignee and Purchaser (Form FC-842).

These revisions are as follows:

(1) A single transaction International Import certificate or Hong Kong Import License will no longer be required in support of an application to export commodities classified in a single entry on the Commodity Control List identified by the code letter "A", the total value of which, as shown on the export order, is less than \$2,200. Previously, this exemption applied only if the total value was less than \$1,000.

(2) Similarly, a single transaction Consignee/Purchaser Statement will no longer be required in support of an application to export commodities classified in a single entry on the Commodity Control List, the total value of which, as shown on the export order, is less than \$2,200. Previously, this exemption applied only if the total value was less than \$1,000.

No change has been made in the requirements for Swiss Blue Import Certificates or Yugoslav End-Use Certificates.

Effective date of Action: December 31, 1973.

Accordingly, § 375.1(c) (2) and (f) (2) of the Export Administration Regulations are amended to read as follows:

§ 375.1 International Import Certificates and Delivery Verification Certificates.

(c) * * *

(2) A license application to export commodities classified in a single entry on the Commodity Control List, the total value of which, as shown on the export order, is less than \$2,200, except where a multiple transactions Import Certificate is filed in accordance with § 375.1(f) (2) below;

(f) * * *

(2) *Multiple Transactions Import Certificate.* A multiple transactions Import Certificate is an officially authenticated original of an Import Certificate which covers more than one proposed transaction. If a multiple transactions Import Certificate specifies the amount of the commodities (in terms of either quantity or value), all export licenses, including those covering a commodity valued at less than \$2,200, will be charged against the amount specified. The applicant shall attach the original multiple transactions Import Certificate, bearing the official authentication of governmental authorities in the importing country, to his first application the Certificate is intended to support. A reproduced copy (photocopy or other type) of the Import Certificate is not acceptable. On each subsequent application submitted against that Certificate, one of the following certifications, as appropriate, signed by the applicant, shall be inserted in the space entitled "Additional Information" or on an attachment:

(i) If quantity or value is shown on the Certificate:

I (We) certify that the quantities (values) of commodities shown on all export licenses based on the (name of country) Import Certificate (or Hong Kong Import License) Number _____, when added to the quantities (values) shown on all additional applications pending in the Office of Export Administration based on the same Import Certificate, including the present application, do not total more than the quantities (values) shown on that Import Certificate. This Import Certificate was submitted in support of application number (Insert case number or, if case number is unknown, the applicant's reference number, date of submission of the application to which the Import Certificate or Hong Kong Import License was attached,

and Export Control Commodity Numbers and Processing Number shown on that application.)

or

(ii) If quantity or value is not shown on the Certificate:

I (We) certify that this application is supported by the (name of country) multiple transactions Import Certificate (or Hong Kong Import License) Number _____ which was submitted in support of application number. (Insert case number or, if case number is unknown, the applicant's reference number, date of submission of the application to which the Import Certificate or Hong Kong Import License was attached, and Export Control Commodity Numbers and Processing Numbers shown on that application.)

(iii) The exporter should furnish his consignee the commodity description shown on the Commodity Control List and advise him to use this description when applying for the Import Certificate from his government. In addition, where the commodity is a new or highly technical product, it is advisable also to furnish a manufacturer's catalog or bulletin, or printed pages describing the commodity. This will be helpful to the foreign government in determining whether the commodity meets the criteria for the issuance of an Import Certificate.

Section 375.2(b) (2) (ii) and (e) (6) are amended to read as follows:

§ 375.2 Ultimate consignee and purchaser statement.

(b) * * *

(2) * * *

(i) The total value of commodities classified under a single entry on the Commodity Control List (as shown on the export order covering the application) is less than \$2,200. However, these total value exemptions do not apply to an application supported by a Form FC-843;

(6) *Validity period.* The original of a single transaction statement shall be submitted to the Office of Export Administration with the first applicable license application. The period within which the statement may be submitted to the Office of Export Administration is limited to 90 days after it is signed by the consignee or purchaser, whichever date is later. There is no specific time limit for submitting the multiple transactions statement to the Office of Export Administration, but such statement may not be used to support license applications filed after the termination date shown in Item 2. An FC-843 signed by the consignee and purchaser any time between January 1, 1973, and December 31, 1973, could be used to support license applications filed on or before June 30, 1975. If, in this example, an earlier termination date than June 30, 1975 is entered in Item 2 of the form, the FC-843 could be used only to support applications filed before that date. During its validity period, a multiple transactions statement will be deemed as supporting all exports of the specified commodities from the U.S. exporter to the named consignee

and purchaser for which license applications are submitted to the Office of Export Administration, including those that are based on export orders of less than \$2,200, and would therefore not be subject to this same requirement under the single transaction (FC-842) procedure.

PART 386—EXPORT CLEARANCE

When an export is made in transit through Canada to a foreign country, § 374.6 of the Export Administration Regulations has required the exporter to submit to Canadian Customs authorities at the Canadian port of entry a copy of the U.S. Shipper's Export Declaration certified by the exporter to be "A True Copy" of the original Declaration. The regulations are revised to include provisions for shipments for which an individual Declaration is not required as part of the expanded provisions set forth below, § 374.6 is deleted and its requirements incorporated in a newly established § 386.1(d) "Shipments Transiting Canada."

For shipments requiring an individual Declaration, the exporter shall continue to submit to the Canadian Customs authorities a copy of Form 7525-V, "Shipper's Export Declaration", certified by him to be "A True Copy" of the original Declaration. This provision, formerly set forth in § 374.6, is now incorporated in § 386.1(d).

For shipments not requiring an individual Declaration because (a) the exporter is authorized to report export information by means other than an individual Declaration (reporting permitted under the monthly summary reporting procedure set forth in § 386.3 (r)), or (b) the shipment qualifies for a specific exemption (listed in Subpart D of the Census Bureau *Foreign Trade Statistics Regulations*), the exporter or his agent shall cite the authorized Summary Authorization Number or symbol, or the specific exemption, as appropriate, on his bill of lading, airway bill, or other shipping document. Such document, properly annotated, shall be displayed to the Canadian Customs authorities and a copy provided, if they so request.

Effective date of action: December 31, 1973.

Accordingly, § 374.6 of the Export Administration Regulations is deleted and a newly designated § 386.1(d) is added to read as follows:

§ 386.1 General export clearance requirements.

(d) *Shipments transiting Canada.* (1) Shipments moving under individual Shipper's Export Declaration. When an export to a foreign country is made in transit through Canada, and the shipment is one for which an individual Shipper's Export Declaration is required pursuant to Part 386, the U.S. exporter shall submit to the Canadian Customs authorities at the Canadian port of entry a copy of the U.S. Shipper's Export Declaration, Form 7525-V, certified by

the exporter as "A True Copy" of the original Declaration.

(2) Shipments for which individual Declarations are not required. When an export to a foreign country is made in transit through Canada, and the shipment is one for which an individual Shipper's Export Declaration is not required because (i) the exporter is authorized to report export information by means other than an individual Shipper's Export Declaration, or (ii) the shipment qualifies for a specific exemption (listed in Subpart D of the Census Bureau *Foreign Trade Statistics Regulations*), the exporter or his agent shall cite the assigned Summary Authorization Number or symbol,¹ or the specific exemption, as appropriate, on his bill of lading, air waybill, or other shipping document. Such document, properly annotated with the Summary Authorization Number or symbol, or a reference to a specific exemption, shall be displayed to the Canadian Customs authorities at the Canadian port of entry and a copy provided, if requested by the Canadian authorities.

Effective date: December 31, 1973.

RAUER H. MEYER,
Director,
Office of Export Administration.

[FR Doc.74-979 Filed 1-11-74; 8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965—)

Subpart A—Hospital Insurance Benefits

Subpart C—Exclusions, Recovery of Overpayment, Liability of a Certifying Officer, and Suspension of Payment

INPATIENT HOSPITAL SERVICES FURNISHED OUTSIDE THE UNITED STATES INCLUDING PHYSICIAN AND AMBULANCE SERVICES

On September 4, 1973, there was published in the FEDERAL REGISTER (38 FR 23802) a notice of proposed rulemaking with proposed amendments to Subparts A and C of Regulations No. 5. The proposed amendments provide payment for (1) inpatient hospital services furnished by a foreign hospital where such hospital is closer to, or substantially more accessible from, the residence of the beneficiary than the nearest adequately equipped and available hospital within the United States, (2) inpatient hospital services furnished by a foreign hospital where such services were for treatment of an emergency which arose in Canada while the individual was traveling by the most direct route and without un-

reasonable delay between Alaska and another State, and (3) physician and ambulance services furnished in conjunction with covered inpatient hospital services furnished in a foreign hospital.

Interested persons were given the opportunity to submit within 30 days, data, views, or arguments with regard to the proposed amendments. No comments have been received and the proposed amendments are adopted without change.

(Secs. 1102, 1814, 1861, 1862, 1871, 49 Stat. 647, as amended, 79 Stat. 296, 331 as amended; (42 U.S.C. 1302, 1395f, 1395x, 1395y, 1395hh.))

Effective date. These amendments shall be effective January 14, 1974.

(Catalog of Federal Domestic Assistance Program Nos. 13.800, Health Insurance for the Aged—Hospital Insurance, and 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

Dated: December 10, 1973.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: January 4, 1974.

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

Regulations No. 5 of the Social Security Administration (20 CFR Part 405) are amended as follows:

1. Section 405.153 is revised to read as follows:

§ 405.153 Payment for services; hospital outside the United States.

(a) **Emergency services.**—The authority contained in § 405.152 is applicable to emergency inpatient hospital services furnished an individual by a hospital located outside the United States if:

(1) The individual was physically present in a place within the United States or, effective with admissions occurring after December 31, 1972, at a place within Canada while traveling without unreasonable delay by the most direct route between Alaska and another State, at the time the emergency arose which necessitated such inpatient hospital services; and

(2) The hospital was closer to, or substantially more accessible from, such place than the nearest hospital within the United States which was adequately equipped to deal with, and was available for the treatment of, such individual's illness or injury; and

(3) The conditions set forth in § 405.152(a) (4), and (7) are met.

(b) **Services in hospital which is closest to or most accessible from beneficiary's residence.**—Effective with admissions occurring after December 31, 1972, payment shall be made for inpatient hospital services furnished an individual entitled to hospital insurance benefits under section 226 of the Social Security Act, by a hospital located outside the United States, or under arrangements (as defined in section 1861(w) of the Social Security Act) if:

(1) Such individual is a resident of the United States; and

(2) Such hospital was closer to, or substantially more accessible from the residence of such individual than the nearest hospital within the United States which was adequately equipped to deal with, and was available for the treatment of, such individual's illness or injury; and.

(3) The foreign hospital is (i) a hospital as defined in § 405.152(a)(1) and (ii) is accredited by the Joint Commission on Accreditation of Hospitals, or is accredited or approved by a program of the country in which such institution is located if the Administration finds the accreditation or comparable approval standards of such program to be essentially equivalent to those of the Joint Commission on Accreditation of Hospitals.

(c) **Payments.**—(1) A payment shall be made in the amount provided under section 1814(b) of the Act to any hospital for the inpatient hospital services described in this section furnished to an individual by the hospital or under arrangements (as defined in section 1861(w) of the Act) with it, if (i) the Administration would be required to make such payment if the hospital had an agreement in effect under this Part and otherwise met the conditions of payment hereunder, and (ii) such hospital elects to claim such payment, and (iii) such hospital agrees to comply, with respect to such services, with the provisions of section 1866(a) of the Act.

(2) Payment for the inpatient hospital services described in this section furnished to an individual entitled to hospital insurance benefits may be made on the basis of an itemized bill to such individual if (i) payment for such services cannot be made under paragraph (c) (1) of this section solely because the hospital does not elect to claim such payment, and (ii) such individual files an application for reimbursement. The amount payable with respect to such services shall, subject to section 1813 of the Act, be equal to the amount which would be payable under section 1814(d) (3) of the Act.

2. Section 405.313 is revised to read as follows:

§ 405.313 Nonreimbursable expenses, items or services not provided in the United States.

Payment may not be made under title XVIII of the Act for expenses incurred for items or services which are not provided within the United States (that is, the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa) except:

(a) Inpatient hospital services furnished outside the United States in accordance with the provisions of § 405.153 (a) and (b), and

(b) Effective with admissions occurring after December 31, 1972, payment may be made on the basis of an itemized bill for physician and ambulance services furnished an individual in con-

¹ Summary Authorization Numbers are assigned by the Census Bureau to exporters who, at the end of the month, file under the provisions of § 386.3(r), Shipper's Summary Export Declarations, Form 7525-M. Exporters filing computerized reports under this monthly summary filing procedure are assigned identifying "symbols" rather than Summary Authorization Numbers.

junction with such covered inpatient hospital services but only for the period during which such inpatient hospital services were furnished.

[FR Doc.74-893 Filed 1-11-74;8:45 am]

Title 28—Judicial Administration
CHAPTER I—DEPARTMENT OF JUSTICE

[Memo No. 483]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart 0—Administrative Division

Under and by virtue of the authority vested in me by § 0.77 of Title 28, Code of Federal Regulations, Administrative Division Memo No. 483, delegating certain authority to the Deputy Assistant Attorney General, Administrative Division is hereby revoked without replacement.

GLEN E. POMMERENING,
Acting Assistant Attorney General for Administration.

JANUARY 4, 1974.

[FR Doc.74-869 Filed 1-11-74;8:45 am]

Title 29—Labor
CHAPTER XII—NATIONAL MEDIATION BOARD

PART 1208—AVAILABILITY OF INFORMATION

Pursuant to the authority contained in 44 Stat. 577, as amended (45 U.S.C. 151-163), the National Mediation Board shall amend Part 1208 of its Rules by the addition of § 1208.6. This new section of the Rules establishes a fee for copying of materials as well as a fee for location and production of such materials where a significant cost would be incurred by the National Mediation Board.

Other amendments and revisions involve changing former § 1208.6 to § 1208.7, and providing that information can now be obtained from the Administrative Officer of the National Railroad Adjustment Board, as well as the Executive Secretary of the National Mediation Board.

Part 1208 is amended to read as follows, and shall become effective on January 14, 1974.

ROWLAND K. QUINN, JR.,
Executive Secretary.

- Sec. 1208.1 Purpose.
- 1208.2 Places at which information may be obtained.
- 1208.3 General policy.
- 1208.4 Material relating to representation function.
- 1208.5 Material relating to mediation function—confidential.
- 1208.6 Fees—duplication costs and search.
- 1208.7 Compliance with subpoenas.

AUTHORITY: Stat. 577, as amended; 45 U.S.C. 151-163.

§ 1208.1 Purpose.

The purpose of this part is to set forth the basic policies of the National Mediation Board and the National Railroad Adjustment Board in regard to the availability and disclosure of informa-

tion in the possession of the NMB and the NRAB.

§ 1208.2 Places at which information may be obtained.

Any individual, carrier or labor organization desiring information regarding the operations of the NMB or the NRAB should communicate directly with either the NMB or the Administrative Officer of the NRAB. General inquiries for information concerning the NMB or NRAB should also be addressed to the Executive Secretary, National Mediation Board, Washington, DC 20572, or Administrative Officer, National Railroad Adjustment Board, 220 South State Street, Chicago, Illinois 60604.

§ 1208.3 General policy.

(a) Public policy and the successful effectuation of the NMB's mission require that Board members and the employees of the NMB maintain a reputation for impartiality and integrity. Labor and management and other interested parties participating in mediation efforts must have assurance, as must labor organizations and individuals involved in questions of representation, that confidential information disclosed to Board members and employees of the NMB will not be divulged, voluntarily or by compulsion.

(b) Notwithstanding this general policy, the Board will under all circumstances endeavor to make public as much information as can be allowed.

§ 1208.4 Material relating to representation function.

(a) The documents constituting the record of a case, such as the notices of hearing, motions, rulings, orders, stenographic reports of the hearings, briefs, exhibits, findings upon investigation, determinations of craft or class, interpretations, dismissals, withdrawals, and certifications, are matters of official record and are available for inspection and examination during the usual business hours at the Board's offices in Washington.

(b) This part notwithstanding, the Board will treat as confidential the evidence submitted in connection with a representation dispute and the investigatory file pertaining to the representation function.

§ 1208.5 Material relating to mediation function—confidential.

(a) All files, reports, letters, memoranda, documents, and papers (hereinafter referred to as confidential documents) relating to the mediation function of the NMB, in the custody of the NMB or its employees relating to or acquired in their mediatory capacity under any applicable section of the Railway Labor Act of 1926, as amended, are hereby declared to be confidential. No such confidential documents or the material contained therein shall be disclosed to any unauthorized person, or be taken or withdrawn, copied or removed from the custody of the NMB or its employees by any person or by any agent of such person or his representative without the explicit consent of the NMB.

(b) However, the following specific documents: Invocation or proffer of

mediation, the reply or replies of the parties, the proffer of arbitration and replies thereto, and the notice of failure of mediatory efforts in cases under Section 5, First of the Railway Labor Act, as amended, are matters of official record and are available for inspection and examination.

(c) Interpretations of mediation agreements by the NMB, arising out of section 5, Second, of the Railway Labor Act, as amended, are public records and are therefore open for public inspection and examination.

§ 1208.6 Fees—duplication costs and search.

(a) Copies of materials available under Section 1208.4 and 1208.5 of this part except for those materials otherwise published and offered for sale shall be supplied upon request and payment shall not exceed 30¢ per page for copying.

(b) In the event the location and production of materials requested by an applicant for his inspection and copying or for copying by the Agency involves significant cost to the Agency, the applicant shall be informed in advance that he will be required to provide reimbursement at the direct cost of the hourly rate of a GS-7 for such cost incurred by the Agency in such location and production.

§ 1208.7 Compliance with subpoenas.

(a) No person connected in any official way with the NMB shall produce or present any confidential records of the Board or testify on behalf of any party to any cause pending in any court, or before any board, commission, committee, tribunal, investigatory body, or administrative agency of the U.S. Government, or any State or Territory of the United States, or the District of Columbia, or any municipality with respect to matters coming to his knowledge in his official capacity or with respect to any information contained in confidential documents of the NMB, whether in answer to any order, subpoena, subpoena duces tecum, or otherwise without the express written consent of the Board.

(b) Whenever any subpoena or subpoena duces tecum calling for confidential documents, or the information contained therein, or testimony as described above shall have been served on any such person, he will appear in answer thereto, and unless otherwise expressly permitted by the Board, respectfully decline, by reason of this section, to produce or present such confidential documents or to give such testimony.

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Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 124]

PART 1-3—PROCUREMENT BY NEGOTIATION

Subpart 1-3.8—Price Negotiation Policies and Techniques

COST OR PRICING DATA

This amendment of the Federal Procurement Regulations (FPR) modifies

Subpart 1-3.8 to provide revised policies and procedures with respect to the requirements for, and use of, cost or pricing data. Developments have indicated the necessity to provide additional guidelines, including new requirements for obtaining cost or pricing data from first and lower tier subcontractors at the time of pricing a prime contract, for clarification of cost or pricing data requirements with respect to contract modifications netting under \$100,000, but based on additive and deductive costs aggregating \$100,000 or more, and to contractually cover situations where only partial cost or pricing data is relied upon in the pricing situation. The changes make the FPR consistent with parallel provisions in the Armed Services Procurement Regulation.

The table of contents of Part 1-3 is changed to provide revised entries, as follows:

Sec.
1-3.807-3 Cost or pricing data.
1-3.814-3 Subcontractor cost or pricing data.

Section 1-3.807-3 is amended to read as follows:

§ 1-3.807-3 Cost or pricing data.

(a) * * *

(2) The pricing of any modification to any formally advertised or negotiated contract, whether or not cost or pricing data was required in connection with the initial pricing of the contract, when the modification involves aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed \$100,000. For example, the requirement applies (i) to a \$30,000 modification resulting from a reduction of \$70,000 and an increase of \$40,000, or (ii) when the modification results in no change in contract price because there is an increase of \$200,000 and a reduction of \$200,000. However, this requirement does not apply when unrelated and separately priced changes for which cost or pricing data would not be required are included in the same modification for administrative convenience.

(b) The requirements of paragraph (a) of this section need not be applied (1) where cost-reimbursement type contracts for basic research with educational institutions are involved, (2) cost-reimbursement type contracts for construction are involved, (3) where the contracting officer determines, in writing, that the price negotiated is (i) based on adequate price competition, (ii) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (iii) prices set by law or regulation, or (4) where, in exceptional cases, the head of the agency or his authorized designee authorizes the waiver of those requirements and states in writing his reasons for such determination (see § 1-3.302(e)).

(d) (1) Any contractor who is required to submit and certify cost or pricing data in accordance with this § 1-3.807-3 shall

be required with his own submission to submit, or arrange for the submission of, accurate, complete and current cost or pricing data from his prospective subcontractors in support of each subcontract cost estimate included in the contractor's submission. This requirement is applicable whenever the contracting officer considers such subcontractor data necessary for good pricing of the prime contract, or, in any event, whenever such subcontractor cost estimate is either (i) \$1,000,000 or more, or (ii) both more than \$100,000 and more than 10 percent of the prime contractor's proposed contract price. The requirement is not applicable, however, when the contractor in his submission demonstrates to the satisfaction of the contracting officer that a prospective subcontract will be based on adequate price competition, or that a prospective subcontract estimate is based on an established catalog or market price of a commercial item sold in substantial quantities to the general public, or a price set by law or regulation. Except for subcontracts within (i) or (ii) of this paragraph (d)(1), any such requirement for subcontractor cost of pricing data may be limited by the contracting officer to particular subcontract items or classes of items. However, in the case of subcontracts of \$100,000 or less, any such requirement shall be subject to limitations comparable to those set forth in § 1-3.807-3(g) for contracts of \$100,000 or less. Submission of subcontractor cost of pricing data from more than one subcontractor for each subcontract item shall not ordinarily be required if the contractor's subcontract cost estimate is based upon the cost or pricing data of the subcontractor who is most likely ultimately to get the subcontract. Notwithstanding the foregoing, the contractor shall remain obligated to submit other contractor data pertaining to subcontract costs, including other subcontractor quotations, to the extent required by other provisions of this § 1-3.807-3.

(2) Prospective subcontractor cost or pricing data when required shall be accurate, complete and current as of the same date specified in the contractor's certificate. The contractor shall be responsible for updating a prospective subcontractor's data to the above date from the time or original submission by the subcontractor. Failure by the contractor to submit or procure submission of subcontract cost or pricing data as required may be cause for disqualification of the contractor from further consideration for award of the proposed contract. However, when the contractor has generally complied with such subcontract cost or pricing data requirements, his failure to do so for particular subcontracts in exceptional cases may be excused by the contracting officer, if the contractor in his submission demonstrates to the satisfaction of the contracting officer that he has expended his best efforts to comply in all cases but has been unable to do so because of time limitations or other circumstances beyond the control

of the contractor. Such excuse, except when limited to an allowance of additional time as provided in this § 1-3.807-3(d)(2)(i), shall be approved by the head of the procuring activity or his designee. For each prospective subcontract so excused, the contracting officer shall either (i) allow additional time for submission of subcontract cost or pricing data up to the date of agreement upon the prime contract price; (ii) withdraw the requirement for such subcontract cost or pricing data if he deems that cost or pricing data or other information submitted by the contractor is adequate to support the subcontract estimate; (iii) reserve such subcontract item for future pricing by reaching agreement upon the contract price subject to a contract provision calling for adjustment of the contract price within a stipulated ceiling on the basis of subcontract or other cost or pricing data required to be submitted thereafter pursuant to paragraph (d)(5) of this § 1-3.807-3 or otherwise (see § 1-3.807-10(c)); (iv) consider another contract type; or (v) make other arrangements as he deems appropriate to provide an adequate basis for agreement upon contract price. Also, for each subcontract so excused, the contractor shall remain obligated to obtain subcontractor cost or pricing data as provided in § 1-3.807-3(d)(5).

(3) The requirements under § 1-3.807-3(d)(1) and (2), modified as appropriate to relate to a higher tier subcontractor rather than the prime contractor, shall apply to lower tier subcontractors under subcontracts for which subcontractor cost or pricing data is required by § 1-3.807-3(d)(1) and (2).

(4) If the cost or pricing data required by paragraph (a) of this § 1-3.807-3 is not adequate for the purpose, the contractor shall be required to support subcontract cost estimates below the minima set forth in § 1-3.807-3(d)(1)(i) and (ii), by any additional data or information needed to establish a reasonable contract (not necessarily subcontract) price. In the last analysis, the contracting officer must satisfy himself that the negotiated contract price is reasonable. For this purpose, he should require whatever additional contractor or subcontractor data is reasonably necessary.

(5) Any contractor who has been required to submit and certify cost or pricing data in accordance with this § 1-3.807-3 shall also be required to obtain cost or pricing data from his subcontractors under the circumstances set forth in the appropriate clause in § 1-3.814-3, notwithstanding any prior submission from subcontractors pursuant to this § 1-3.807-3(d).

(6) Cost or pricing data furnished by a subcontractor or a prospective subcontractor pursuant to this § 1-3.807-3 must be submitted to the prime contractor or higher-tier subcontractor. It is the responsibility of the prime contractor and higher-tier subcontractor to review and evaluate the subcontract proposal and accompanying cost or pricing data

and furnish the results of such review and evaluation to the Government as part of their cost or pricing data submission.

(e) (1) When, in the contracting officer's opinion, the prime or higher-tier subcontractor's analysis of the subcontract proposal is inadequate, the contracting officer will return the analysis package to the prime for a re-accomplishment of the analysis. The contracting officer should indicate the areas of inadequacy of review.

(2) It is the prime contractor's responsibility to accomplish or cause the accomplishment of the additional review required and resubmission of the package to the contracting officer.

(3) If the prime or higher-tier subcontractor is unable to accomplish the required additional analysis for justifiable reason, the Government will assist in the performance of the limited additional review required. The prime contractor must submit in these instances convincing evidence to the contracting officer that the prime or higher-tier subcontractor is unable to accomplish the additional analysis either because the additional review would jeopardize the subcontractor's competitive position or proprietary data is involved.

(4) There may be other occasions when a prospective prime contractor or higher-tier subcontractor will request the contracting officer's assistance to perform or assist in performing a limited or complete review and evaluation of a subcontractor's proposal, in lieu of performing this work himself. The contracting officer should make arrangements for such assistance only when, in his opinion, it would be in the best interests of the Government to perform this contractor responsibility. Such assistance should generally be provided only when:

(i) There is a business relationship between the prime contractor and subcontractor which is not conducive to independence and objectivity, as in the case of a parent and subsidiary, or when the prime and subcontracting roles of companies are frequently reversed; or

(ii) The contractor is a sole source and the subcontractor costs represent a substantial part of the prime contractor's costs.

(5) There may also be situations when, in analyzing a contractor's proposal or negotiating a prime contract, the contracting officer considers it necessary to validate the prime contractor's review and evaluation of the subcontractor's proposal required under this § 1-3.807-3(d). The purpose would be to satisfy the Government, not the prime contractor, that these elements of the prime contractor's total proposed price are reasonable. This can be accomplished by the contracting officer requesting that a review of the proposal of one or more major subcontractors be performed by cognizant Government personnel (see § 1-3.801-3).

(g) (1) Certified cost or pricing data shall not be requested prior to the award

of any contract anticipated to be for \$10,000 or less and generally should not be requested for modifications in those amounts. There should be relatively few instances where certified cost or pricing data and the inclusion of defective pricing clauses would be justified in awards between \$10,000 and \$100,000. In most such awards, the administrative costs will outweigh the benefits which might otherwise accrue from receipt of certified cost or pricing data. Accordingly, all other means of determining reasonableness of price should be utilized. When less than complete cost analysis (e.g., analysis of only specific factors) will provide a reasonable pricing result (see § 1-3.807-2 (a)) on awards under \$100,000 without the submission of complete cost or pricing data, the contracting officer shall request, without certification, only that data which he considers adequate to support the limited extent of the cost analysis required.

(2) Although cost or pricing data was requested in the solicitation, a certification of cost or pricing data shall not be requested in connection with the award of any contract of any dollar value where the price negotiated is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(i) Solicitations, including invitations for bids, requests for proposals, or requests for quotations for procurements expected to exceed \$100,000 shall (1) contain information as to the requirements for cost or pricing data and (2) incorporate the (i) applicable clauses in §§ 1-3.814-1, 1-3.814-2, and 1-3.814-3, and (ii) certificate in § 1-3.807-4 if certification of cost or pricing data is required. These criteria shall be modified, as appropriate, when any cost or pricing data is required in accordance with § 1-3.807-3 for negotiated contracts (or modifications to formally advertised or negotiated contracts) not expected to exceed \$100,000 (see § 1-3.814).

Section 1-3.807-5 is amended to read as follows:

§ 1-3.807-5 Defective cost or pricing data.

(a) Where any price to the Government must be negotiated largely on the basis of cost or pricing data submitted by the contractor, it is essential that the data be accurate, complete, and current and in appropriate cases so certified by the contractor or subcontractor (see §§ 1-3.807-3 and 1-3.807-4). If such certified cost or pricing data is subsequently found to have been inaccurate, incomplete or noncurrent as of the effective date of the certificate, the Government is entitled to an adjustment of the negotiated price, including profit or fee, to exclude any significant sum by which the price was increased because of the defective data. The clauses set forth in § 1-3.814-1 give the Government in such a case an enforceable contract right to a price adjustment; that is, to a reduc-

tion in the price to what it would have been if the contractor had submitted accurate, complete and current data. They also give the Government a right to a price adjustment for defects in cost or pricing data submitted by a prospective or actual subcontractor and, in some cases, for inaccurate data furnished by a contractor. In arriving at a price adjustment under a clause, the contracting officer should, after review of the record of the contract negotiation (see § 1-3.811), consider the following:

(1) Certain data such as overhead expenses and production records may not be reasonably available except on normal periodic closing dates. Also, the data on numerous minor material items, each of which by itself would be insignificant, may be reasonably available only as of a cutoff date prior to agreement on price because the volume of transactions would make the use of any later date impracticable. Furthermore, except where a single item is used in substantial quantities, the net effect of any changes to the prices of such minor items would likely be insignificant. Closing or cutoff dates should be included as part of the data submitted with the contractor's proposal and should be updated by the contractor to the latest closing or cutoff dates, preceding agreement on price, for which such data are available. The contracting officer and contractor are encouraged to reach a prior understanding on criteria for establishing closing or cutoff dates, and to the extent possible the understanding should relate to the contractor's formal estimating system. Notwithstanding the foregoing, matters which are significant to contractor management and to Government and any related data within the contractor's organization or the organization of a subcontractor or prospective subcontractor would be expected to be current on the date of agreement on price and therefore will be treated as reasonably available as of that date. Although changes in the labor base or in prices of major material items are generally significant matters, no hard and fast rule can be laid down since what is significant can depend upon such circumstances as the size and nature of the procurement.

(3) In determining the amount of an adjustment in the contract price because of defective cost or pricing data, the contracting officer shall consider any understated cost or pricing data submitted in support of price negotiations for the same pricing action (e.g., for the initial pricing of the same contract or for pricing the same change order) up to the amount of the Government's claim for overstated cost or pricing data arising out of the same pricing action. Such offsets, however, need not be in the same cost groupings (e.g., material, labor, or overhead).

(d) Under the Price Reduction for Defective Cost or Pricing Data" clauses in § 1-3.814-1, the Government's right to

reduce the prime contract price extends to cases where the prime contract price was increased by any significant sums because a subcontractor furnished defective cost or pricing data. In exercising the Government's rights in such cases, the contracting officer will consider the following:

(1) In some instances, the prime contractor may have already reached agreement on price with a subcontractor before the prime contractor and the Government agree on a definitive price. This might occur, for example, if the prime contractor commenced performance under a letter contract or under an unpriced change order. In such cases the subcontractor's cost or pricing data must be submitted with the prime contractor's submission. If any such subcontractor data is subsequently found to be defective, the prime contract is subject to price adjustment in the same manner as would be the case if any other cost or pricing data submitted by the prime contractor proved to be defective.

(2) The Government and the prime contractor will normally agree on the price of a contract prior to final agreement on price between the prime contractor and his subcontractor. In such cases, the prime contract price will be based, in part, on subcontract cost estimates. The prime contractor will be expected to support his subcontract cost estimates with subcontractor cost or pricing data as provided in § 1-3.807-3 (d). The prime contract price will be subject to adjustment on the basis of defective subcontractor cost or pricing data submitted prior to agreement on the prime contract price if:

(i) Such subcontractor data was not accurate, complete, and current as of the date certified in the prime contractor's Certificate of Current Cost or Pricing Data, or in some cases was not accurate as submitted by the subcontractor; and

(ii) The prime contract price was increased by a significant sum because of such defective subcontractor data.

Any adjustment in prime contract price due to defective subcontract data of a prospective subcontractor, where the subcontract was not subsequently awarded to the prospective subcontractor, will be limited to the amount (plus applicable overhead and profit markups) by which the actual subcontract price or actual cost to the contractor if not subcontracted, was less than the original subcontract cost estimate, provided the actual subcontract price was not affected by defective data.

(3) Under cost-reimbursement type and under all fixed-price type contracts except firm fixed-price and fixed-price with escalation, increases in payments to subcontractors due to defective subcontractor cost or pricing data will be the basis for disallowance or nonrecognition of costs under the defective cost or pricing data clauses, because the Government has a continuing and direct financial interest in such payments which is unaffected by the initial agreement on prime contract price. Although the action is taken under those price reduction clauses rather than under Part 1-15 of

the Federal Procurement Regulations (41 CFR 1-15), as a practical matter the result is the same, i.e., the increased costs will be disallowed under cost type contracts or not considered as actual costs for final pricing of redeterminable or incentive type contracts. The action is taken under the price reduction clauses because, not only will the increased costs be disallowed or not considered as actual costs but also, the fixed-fee or target profit included in the initial price may be subject to reduction in accordance with § 1-3.807-5(d) (1) and (2).

(e) In some cases, as where the defective nature of a subcontractor's data is only disclosed by Government audit, the information necessary to support a reduction in prime contract and subcontract prices may be available only from the Government. To the extent necessary to secure a prime contract price reduction, the contracting officer should make such necessary information available, upon request, to the prime contractor or appropriate subcontractors. However, if the release of such information would compromise security or disclose trade secrets or other confidential business information, it shall be made available only under conditions that will fully protect it from improper disclosure, as may be prescribed by the head of the agency or his authorized designee. Information made available pursuant to this paragraph (e) shall be limited to that used as the basis for the prime contract price reduction.

(f) Inasmuch as price reductions under the "Price Reduction for Defective Cost or Pricing Data" clauses may involve subcontractors as well as the prime contractor, the contracting officer should give the prime contractor an opportunity to take any action deemed advisable by him, particularly in connection with any subcontracts that may be involved.

Section 1-3.814 is revised to read as follows:

§ 1-3.814 Contract clauses.

Where any cost or pricing data is required in accordance with § 1-3.807-3, the applicable clauses in §§ 1-3.814-1, 1-3.814-2, and 1-3.814-3 shall be included in the solicitation and in any resultant contract (see § 1-3.807-3(i)).

Section 1-3.814-1 is amended to read as follows:

§ 1-3.814-1 Price reduction for defective cost or pricing data.

(a) Except as provided in § 1-3.807-3(b), the following clause shall be included in (1) all negotiated contracts which when entered into exceed \$100,000, (2) other negotiated contracts for which, in connection with the initial pricing of the contract, (i) a certificate of cost or pricing data is required in accordance with § 1-3.807-3(c), or (ii) partial cost or pricing data is obtained in accordance with § 1-3.807-3.

PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA

If any price, including profit or fee, negotiated in connection with this contract or any cost reimbursable under this contract

was increased by any significant sums because:

(a) The Contractor furnished cost or pricing data which was not accurate, complete and current as certified in the Contractor's Certificate of Current Cost or Pricing Data;

(b) A subcontractor, pursuant to the clause of this contract entitled "Subcontractor Cost or Pricing Data" or "Subcontractor Cost or Pricing Data—Price Adjustments" or any subcontract clause therein required, furnished cost or pricing data which was not accurate, complete and current as certified in the subcontractor's Certificate of Current Cost or Pricing Data;

(c) A subcontractor or prospective subcontractor furnished cost or pricing data which was required to be accurate, complete and current and to be submitted to support a subcontract cost estimate furnished by the Contractor but which was not accurate, complete and current as of the date certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(d) The Contractor or a subcontractor or prospective subcontractor furnished any data, not within (a), (b) or (c) above, which was not accurate as submitted; the price or cost shall be reduced accordingly and the contract shall be modified in writing as may be necessary to reflect such reduction. However, any reduction in the contract price due to defective subcontract data of a prospective subcontractor when the subcontract was not subsequently awarded to such subcontractor, will be limited to the amount (plus applicable overhead and profit markup) by which the actual subcontract, or actual cost to the Contractor if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor: *Provided*, The actual subcontract price was not affected by defective cost or pricing data.

(NOTE: Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.)

(b) The following clause shall be included in all contracts, both formally advertised and negotiated, which when entered into exceed \$100,000, other than those described in § 1-3.814-1(a) (1) and (2). However, the clause need not be included where, in accordance with § 1-3.807-3(b), the requirement for obtaining cost or pricing data has (1) not been applied to a cost contract of the type specified therein, or (2) been waived by the head of the agency. In addition, the clause, with dollar amounts appropriately reduced, shall be included in contracts of this type which do not exceed \$100,000 where any cost or pricing data is required in accordance with § 1-3.807-3 in connection with the pricing of contract modifications.

PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA—PRICE ADJUSTMENTS

(a) This clause shall become operative only with respect to any modification of this contract which involves aggregate increases and/or decreases in costs plus applicable profits in excess of \$100,000 unless the modification is priced on the basis of adequate price competition, established catalog or

market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. The right to price reduction under this clause is limited to defects in data relating to such modification.

(b) If any price, including profit, or fee, negotiated in connection with any price adjustment under this contract was increased by any significant sums because:

(1) The Contractor furnished cost or pricing data which was not accurate, complete and current as certified in the Contractor's Certificate of Current Cost or Pricing Data;

(2) A subcontractor, pursuant to the clause of this contract entitled "Subcontractor Cost or Pricing Data" or "Subcontractor Cost or Pricing Data—Price Adjustments" or any subcontract clause therein required, furnished cost or pricing data which was not accurate, complete and current as certified in the subcontractor's Certificate of Current Cost or Pricing Data;

(3) A subcontractor or prospective subcontractor furnished cost or pricing data which was required to be accurate, complete and current and to be submitted to support a subcontract cost estimate furnished by the Contractor but which was not accurate, complete and current as of the date certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(4) The Contractor or a subcontractor or prospective subcontractor furnished any data, not within (1), (2) or (3) above, which was not accurate, as submitted; the price shall be reduced accordingly and the contract shall be modified in writing as may be necessary to reflect such reduction. However, any reduction in the contract price due to defective subcontract data of a prospective subcontractor, when the subcontract was not subsequently awarded to such subcontractor, will be limited to the amount (plus applicable overhead and profit markup) by which the actual subcontract, or actual cost to the Contractor if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor: *Provided* the actual subcontract price was not affected by defective cost or pricing data.

(NOTE: Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.)

Section 1-3.814-2 is revised to read as follows:

§ 1-3.814-2 Audit and records.

(a) The following clause shall be included in all contracts, both formally advertised and negotiated, which contain the contract clause in either § 1-3.814-1(a) or (b) and may be used to determine the allowability of costs under cost-reimbursement type contracts.

AUDIT

(a) *General.* The Contracting Officer or his representatives shall have the audit and inspection rights described in the applicable paragraphs (b), (c) and (d) below.

(b) *Examination of costs.* If this is a cost-reimbursement type, incentive, time and materials, labor hour, or price re-

terminable contract, or any combination thereof, the Contractor shall maintain, and the Contracting Officer or his representatives shall have the right to examine books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract. Such right of examination shall include inspection at all reasonable times of the Contractor's plants, or such parts thereof, as may be engaged in the performance of this contract.

(c) *Cost or pricing data.* If the Contractor submitted cost or pricing data in connection with the pricing of this contract or any change or modification thereto, unless such pricing was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the Contracting Officer or his representatives who are employees of the United States Government shall have the right to examine all books, records, documents and other data of the Contractor related to the negotiation, pricing or performance of such contract, change or modification, for the purpose of evaluating the accuracy, completeness and currency of the cost or pricing data submitted. Additionally, in the case of pricing any change or modification exceeding \$100,000 to formally advertised contracts, the Comptroller General of the United States or his representatives who are employees of the United States Government shall have such rights. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(d) *Availability.* The materials described in (b) and (c) above, shall be made available at the office of the Contractor, at all reasonable times, for inspection, audit or reproduction, until the expiration of 3 years from the date of final payment under this contract or such lesser time specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20) and for such longer period, if any, as is required by applicable statute, or by other clauses of this contract, or by (1) and (2) below:

(1) If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for a period of 3 years from the date of any resulting final settlement.

(2) Records which relate to appeals under the "Disputes" clause of this contract, or litigation or the settlement of claims arising out of the performance of this contract, shall be made available until such appeals, litigation, or claims have been disposed of.

(e) The Contractor shall insert a clause containing all the provisions of this clause, including this paragraph (e), in all subcontracts hereunder except altered as necessary for proper identification of the contracting parties and the Contracting Officer under the Government prime contract.

(b) The requirement for inclusion of the clause in paragraph (a) of this § 1-3.814-2 may be waived for contracts with foreign governments or agencies thereof under circumstances where the requirement for the clauses in §§ 1-3.814-1 and 1-3.814-3 may be waived.

(c) Except as otherwise provided in Subpart 1-6.10 of this chapter, or when independent authority exists for the omission of such clause, the clause in §§ 1-7.103-3 and 1-7.602-7 shall be inserted in all negotiated fixed-price con-

tracts in excess of \$2,500, including contracts awarded under a total set-aside as defined in § 1-1.701-9) or a partial small business restricted advertising, set-aside (see §§ 1-1.706 and 1-1.804), and a clause containing substantially the same provisions shall be included in all other negotiated contracts in excess of \$2,500 (the clause prescribed by § 1-7.103-3 of this chapter satisfies this requirement). In addition, the right of the contracting agency to inspect the plant and to audit the books and records of any prime contractor or subcontractor engaged in the performance of a cost-type contract shall be expressly reserved in any such contract. The audit clause in this § 1-3.814-2(a) may be used for that purpose.

Section 1-3.814-3 is amended to read as follows:

§ 1-3.814-3 Subcontractor cost or pricing data.

(a) * * *

SUBCONTRACTOR COST OR PRICING DATA

(a) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances:

(1) Prior to the award of any subcontract the amount of which is expected to exceed \$100,000 when entered into;

(2) Prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed \$100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(b) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief, the cost and pricing data submitted under (a) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(c) The Contractor shall insert the substance of this clause including this paragraph (c) in each subcontract hereunder which exceeds \$100,000 when entered into except where the price thereof is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In each such excepted subcontract hereunder in excess of \$100,000, the Contractor shall insert the substance of the following clause:

SUBCONTRACTOR COST OR PRICING DATA—PRICE ADJUSTMENTS

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any modification made pursuant to one or more provisions of this contract which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed \$100,000. The requirements of this clause shall be limited to such contract modifications.

(b) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances:

(1) Prior to award of any subcontract, the amount of which is expected to exceed \$100,000 when entered into;

(2) Prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed \$100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief the cost and pricing data submitted under (b) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract hereunder which exceeds \$100,000 when entered into.

(b) * * *

SUBCONTRACTOR COST OR PRICING DATA—PRICE ADJUSTMENTS

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any modification made pursuant to one or more provisions of this contract which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed \$100,000. The requirements of this clause shall be limited to such modifications.

(b) The Contractor shall require subcontractors hereunder to submit cost or pricing data under the following circumstances:

(1) Prior to the award of any subcontract the amount of which is expected to exceed \$100,000 when entered into;

(2) Prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed \$100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify that to the best of their knowledge and belief the cost or pricing data submitted under (b) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract which exceeds \$100,000.

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

Effective date. This amendment is effective February 25, 1974, but may be observed earlier.

Dated: January 7, 1974.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.74-992 Filed 1-11-74;8:45 am]

[FPR Amdt. 123]

PART 1-7—CONTRACT CLAUSES Clauses for Cost-Reimbursement Type Supply Contracts

This amendment of the Federal Procurement Regulations establishes a new Subpart 1-7.2, Cost-Reimbursement

Type Supply Contracts, and prescribes clauses to be used in cost-reimbursement type supply contracts.

The table of contents for Part 1-7 is amended by the deletion of the designation "Reserved" and the insertion of the caption "Cost-Reimbursement Type Supply Contracts" for Subpart 1-7.2 and by the addition of new entries, as follows:

Subpart 1-7.2—Cost-Reimbursement Type Supply Contracts

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| 1-7.202-24 | Notice and assistance regarding patent and copyright infringement. |
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| 1-7.202-26 | Utilization of small business concerns. |
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| 1-7.202-28 | Utilization of minority business enterprises. |
| 1-7.202-29 | Payment for overtime premiums. |
| 1-7.202-30 | Competition in subcontracting. |
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| 1-7.202-33 | Subcontractor cost and pricing data. |
| 1-7.202-34 | Payment of interest on contractors' claims. |
| 1-7.202-35 | Listing of employment openings. |
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| 1-7.203 | Clauses to be used when applicable. |
| 1-7.203-1 | Clauses for cost-reimbursement type supply contracts involving construction. |
| 1-7.203-2 | [Reserved] |
| 1-7.203-3 | Notice to the Government of labor disputes. |
| 1-7.203-4 | [Reserved] |
| 1-7.203-5 | [Reserved] |
| 1-7.203-6 | [Reserved] |
| 1-7.203-7 | [Reserved] |
| 1-7.203-8 | [Reserved] |
| 1-7.203-9 | Negotiated overhead rates. |
| 1-7.203-10 | Make-or-buy program. |
| 1-7.203-11 | Advance payments. |
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| 1-7.203-13 | General Services Administration supply sources. |
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| 1-7.203-15 | Interest. |
| 1-7.203-16 | Use of excess aluminum. |
| 1-7.203-17 | [Reserved] |
| 1-7.203-18 | Small business subcontracting program. |
| 1-7.203-19 | Labor surplus area subcontracting program. |
| 1-7.203-20 | Minority business enterprises subcontracting program. |
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| 1-7.204 | Additional clauses. |
| 1-7.204-1 | Alterations in contract. |
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| 1-7.204-3 | Date of incurrence of cost. |
| 1-7.204-4 | Notice regarding late delivery. |

A new Subpart 1-7.2 is added, as follows:

Subpart 1-7.2—Cost-Reimbursement Type Supply Contracts

§ 1-7.200 Scope of subpart.

This subpart sets forth contract clauses for use in cost-reimbursement type supply contracts.

§ 1-7.201 Applicability.

The clauses set forth in this subpart shall be used in cost-reimbursement type supply contracts.

§ 1-7.202 Required clauses.

The clauses set forth in this § 1-7.202 shall be inserted in all cost-reimbursement type supply contracts.

§ 1-7.202-1 Definitions.

Insert the clause set forth in § 1-7.102-1. Additional definitions may be included provided they are not inconsistent with the clause or the provisions of these regulations.

§ 1-7.202-2 Changes.

CHANGES

(a) The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following: (1) Drawings, designs, or specifications, where supplies to be furnished are to be specially manufactured for the Government in accordance therewith; (2) method of shipment or packing; and (3) place of delivery.

(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for, the performance of any part of the work under this contract, whether changed or not changed by any such order, or otherwise affects any other provision of this contract, an equitable adjustment shall be made: (1) In the estimated cost or delivery schedule, or both; (2) in the amount of any fixed-fee to be paid to the contractor; and (3) in such other provisions of the contract as may be affected, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change: *Provided, however,* That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Dis-

putes." However, except as provided in paragraph (c), below, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(c) Notwithstanding the provisions of paragraphs (a) and (b), above, the estimated cost of this contract and, if this contract is incrementally funded, the funds allotted for the performance thereof, shall not be increased or deemed to be increased except by specific written modification of the contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract. Until such modification is made, the Contractor shall not be obligated to continue performance or incur costs beyond the point established in the clause of this contract entitled "Limitation of Cost" or "Limitation of Funds."

§ 1-7.202-3 Limitation of cost or funds.

(a) Insert the following clause in all fully funded cost-reimbursement type supply contracts:

LIMITATION OF COST

(a) It is estimated that the total cost to the Government for the performance of this contract, exclusive of any fee, will not exceed the estimated cost set forth in the Schedule, and the Contractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such estimated cost. If, at any time, the Contractor has reason to believe that the costs which he expects to incur in the performance of this contract in the next succeeding 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost then set forth in the Schedule, or if, at any time, the Contractor has reason to believe that the total cost to the Government for the performance of this contract, exclusive of any fee, will be greater or substantially less than the then estimated cost hereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving the revised estimate of such total cost for the performance of this contract.

(b) Except as required by other provisions of this contract specifically citing and stated to be an exception from this clause, the Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the estimated cost set forth in the Schedule, and the Contractor shall not be obligated to continue performance under the contract (including actions under the Termination clause) or otherwise to incur costs in excess of the estimated cost set forth in the Schedule, unless and until the Contracting Officer shall have notified the Contractor in writing that such estimated cost has been increased and shall have specified in such notice a revised estimated cost which shall thereupon constitute the estimated cost of performance of this contract. No notice, communication, or representation in any other form or from any person other than the Contracting Officer shall affect the estimated cost of this contract. In the absence of the specified notice, the Government shall not be obligated to reimburse the Contractor for any costs in excess of the estimated cost set forth in the Schedule, whether those excess costs were incurred during the course of the contract or as a result of termination. When and to the extent that the estimated cost set forth in the Schedule has been increased, any costs incurred by the Contractor in excess of the estimated cost prior to such increase shall be allowable to the same extent as if such costs had been incurred after the increase; unless the Contracting Officer issues a termination or other notice and directs that the increase is solely for the purpose of covering termination or other specified expenses.

ering termination or other specified expenses.

(c) Change orders issued pursuant to the Changes clause of this contract shall not be considered an authorization to the Contractor to exceed the estimated cost set forth in the Schedule in the absence of a statement in the change order, or other contract modification, increasing the estimated cost.

(d) In the event that this contract is terminated or the estimated cost not increased, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract based upon the share of costs incurred by each.

(b) Insert the following clause in all cost-reimbursement type supply contracts which are to be incrementally funded:

LIMITATION OF FUNDS

(a) It is estimated that the cost to the Government for the performance of this contract will not exceed the estimated cost set forth in the Schedule, and the Contractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such estimated cost.

(b) The amount presently available for payment and allotted to this contract, the items covered thereby, the period of performance which it is estimated the allotted amount will cover, are specified in the Schedule. It is contemplated that from time to time additional funds will be allotted to this contract up to the full estimated cost set forth in the Schedule, exclusive of any fee. The Contractor agrees to perform or have performed work on this contract up to the point at which the total amount paid and payable by the Government pursuant to the terms of this contract approximates but does not exceed the total amount actually allotted to the contract.

(c) If at any time the Contractor has reason to believe that the costs which he expects to incur in the performance of this contract in the next succeeding 60 days, when added to all costs previously incurred, will exceed 75 percent of the total amount then allotted to the contract, the Contractor shall notify the Contracting Officer in writing to that effect. The notice shall state the estimated amount of additional funds required to continue performance for the period set forth in the Schedule. Sixty days prior to the end of the period specified in the Schedule the Contractor will advise the Contracting Officer in writing as to the estimated amount of additional funds, if any, that will be required for the timely performance of the work under the contract or for such further period as may be specified in the Schedule or otherwise agreed to by the parties. If, after such notification, additional funds are not allotted by the end of the period set forth in the Schedule or an agreed date substituted therefor, the Contracting Officer will, upon written request by the Contractor, terminate this contract pursuant to the provisions of the Termination clause on such date. If the Contractor, in the exercise of his reasonable judgment, estimates that the funds available will allow him to continue to discharge his obligations hereunder for a period extending beyond such date, he shall specify the later date in his request and the Contracting Officer, in his discretion, may terminate this contract on that later date.

(d) Except as required by other provisions of this contract specifically citing and stated to be an exception from this clause, the Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the total amount from time to time allotted to the contract, and the Contractor

shall not be obligated to continue performance under the contract (including actions under the Termination clause) or otherwise to incur costs in excess of the amount allotted to the contract, unless and until the Contracting Officer has notified the Contractor in writing that such allotted amount has been increased and has specified in such notice an increased amount constituting the total amount then allotted to the contract. To the extent the amount allotted exceeds the estimated cost set forth in the Schedule, such estimated cost shall be correspondingly increased. No notice, communication, or representation in any other form or from any person other than the Contracting Officer shall affect the amount allotted to this contract. In the absence of the specified notice, the Government shall not be obligated to reimburse the Contractor for any costs in excess of the total amount then allotted to the contract, whether those excess costs were incurred during the course of the contract or as a result of termination. When and to the extent that the amount allotted to the contract has been increased, any costs incurred by the Contractor in excess of the amount previously allotted shall be allowable to the same extent as if such costs had been incurred after such increase in the amount allotted; unless the Contracting Officer issues a termination or other notice and directs that the increase is solely for the purpose of covering termination or other specified expenses.

(e) Change orders issued pursuant to the Changes clause of this contract shall not be considered an authorization to the Contractor to exceed the amount allotted in the Schedule in the absence of a statement in the change order, or other contract modification, increasing the amount allotted.

(f) Nothing in this clause shall affect the right of the Government to terminate this contract. In the event this contract is terminated, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract based upon the share of costs incurred by each.

(g) In the event that sufficient funds are not allotted to this contract to allow completion of the work contemplated by this contract, the Contractor shall be entitled to that percentage of the fee set forth in the Schedule equivalent to the percentage of completion of the work contemplated by this contract.

(c) In the foregoing clauses set forth in paragraphs (a) and (b) of this § 1-7.202-3, the period of "60 days" and the percentage of "75 percent" may be varied from 30 days to 90 days and 75 percent to 85 percent.

§ 1-7.202-4 Allowable cost, fee, and payment.

Insert the following clause in all cost-reimbursement type supply contracts which provide for the payment of a fixed-fee:

ALLOWABLE COST, FIXED-FEE, AND PAYMENT

(a) For the performance of this contract, the Government shall pay to the Contractor:

(1) The cost thereof (hereinafter referred to as "allowable cost") determined by the Contracting Officer to be allowable in accordance with:

(i) Subpart 1-15.2 of the Federal Procurement Regulations (41 CFR 1-15.2), as in effect on the date of this contract; and

(ii) The terms of this contract; and

(2) Such fixed-fee, if any, as may be provided for in the Schedule.

(b) Payments shall be made to the Contractor when requested as work progresses,

but not more frequently than biweekly, in amounts approved by the Contracting Officer. The Contractor may submit to an unauthorized representative of the Contracting Officer, in such form and reasonable detail as such representative may require, an invoice or public voucher supported by a statement of cost for the performance of this contract and claimed to constitute allowable cost. For this purpose, the term costs shall include only those recorded costs which result, at the time of the request for reimbursement, from payment by cash, check, or other form of actual payment for items or services purchased directly for the contract, together with (when the Contractor is not delinquent in payment of costs of contract performance in the ordinary course of business) costs incurred, but not necessarily paid, for materials which have been issued from the Contractor's stores inventory and placed in the production process for use on the contract, for direct labor, for direct travel, for other direct inhouse costs, and for properly allocated and allowable indirect costs, as is shown by records maintained by the Contractor for purposes of obtaining reimbursement under Government contracts plus the amount of progress payments which have been paid to the Contractor's subcontractors under similar cost standards. The requirement of prior payment for items or services purchased directly for the contract shall not apply where the Contractor is a small business concern.

(c) Promptly after receipt of each invoice or voucher and statement of cost, the Government shall, except as otherwise provided in this contract subject to the provisions of (d), below, make payment thereon as approved by the Contracting Officer. Payment of the fixed-fee, if any, shall be made to the Contractor as specified in the Schedule: *Provided, however*, That after payment of 85 percent of the fixed-fee set forth in the Schedule, the Contracting Officer may withhold further payment of fee until a reserve shall have been set aside in an amount which he considers necessary to protect the interests of the Government, but such reserve shall not exceed 15 percent of the total fixed-fee, or \$100,000, whichever is less.

(d) At any time or times prior to final payment under this contract the Contracting Officer may have the invoices or vouchers and statements of cost audited. Each payment thereafter made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the Contracting Officer, on the basis of such audit, not to constitute allowable cost. Any payment may be reduced for overpayments, or increased for underpayments, on preceding invoices or vouchers.

(e) On receipt and approval of the invoice or voucher designated by the Contractor as the "completion invoice" or "completion voucher" and upon compliance by the Contractor with all the provisions of this contract (including, without limitation, the provisions relating to patents and the provisions of (f), below), the Government shall promptly pay to the Contractor any balance of allowable cost, and any part of the fixed-fee, which has been withheld pursuant to (c), above, or otherwise not paid to the Contractor. The completion invoice or voucher shall be submitted by the Contractor promptly following completion of the work under this contract but in no event later than 1 year (or such longer period as the Contracting Officer may in his discretion approve in writing) from the date of such completion.

(f) The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor or any assignee

under this contract shall be paid by the Contractor to the Government, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the Contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the Contracting Officer. Prior to final payment under this contract, the Contractor and each assignee under this contract whose assignment is in effect at the time of final payment under this contract shall execute and deliver:

(1) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(2) A release discharging the Government its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(i) Special claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor;

(ii) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract: *Provided, however*, That such claims are not known to the Contractor on the date of the execution of the release; and provided further, that the Contractor gives notice of such claims in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier; and

(iii) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents.

(g) Any cost incurred by the Contractor under the terms of this contract which would constitute allowable cost under the provisions of this clause shall be included in determining the amount payable under this contract, notwithstanding any provisions contained in the specifications or other documents incorporated in this contract by reference, designating services to be performed or materials to be furnished by the Contractor at his expense or without cost to the Government.

§ 1-7.202-5 Inspection of supplies and correction of defects.

INSPECTION OF SUPPLIES AND CORRECTION OF DEFECTS

(a) All supplies (which term throughout this clause includes without limitation raw materials, components, intermediate assemblies, and end products) shall be subject to inspection and test by the Government, to the extent practicable at all times and places including the period of manufacture, and in any event prior to acceptance. The Contractor shall provide and maintain an inspection system acceptable to the Government covering the supplies, fabricating methods, and special tooling hereunder. The Government, through any authorized representative, may inspect the plant or plants of the Contractor or any of his subcontractors engaged in the performance of this contract. If any inspection or test is made by the Government on the premises of the

Contractor or a subcontractor, the Contractor shall provide and shall require subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. All inspections and tests by the Government shall be performed in such a manner as will not unduly delay the work. Except as otherwise provided in this contract, acceptance of any supplies or lots of supplies shall be made as promptly as practicable after delivery thereof and shall be deemed to have been made no later than 60 days after the date of such delivery, if acceptance has not been made earlier within such period.

(b) At any time during performance of this contract, but not later than 6 months (or such other period as may be provided in the Schedule) after acceptance of the supplies or lots of supplies last delivered in accordance with the requirements of this contract, the Government may require the Contractor to remedy by correction or replacement, as directed by the Contracting Officer, any supplies or lots of supplies which at the time of delivery thereof are defective in material or workmanship or otherwise not in conformity with the requirements of this contract. Except as otherwise provided in paragraph (c) hereof, the cost of any such replacement or correction shall be included in allowable cost determined as provided in the clause of this contract entitled "Allowable Cost, Fixed-Fee, and Payment," but no additional fee shall be payable with respect thereto. Such supplies or lots of supplies shall not be tendered thereafter for acceptance unless the former requirement of correction is disclosed. If the Contractor fails to proceed with reasonable promptness to replace or correct such supplies or lots of supplies, the Government (1) may by contract or otherwise replace or correct such supplies and charge to the Contractor any increased cost occasioned the Government thereby, or may reduce any fixed fee payable under this contract (or require repayment of any fixed fee theretofore paid) in such amount as may be equitable under the circumstances, or (2) in the case of supplies not delivered, may require the delivery of such supplies, and shall have the right to reduce any fixed fee theretofore paid) in such amount as may be equitable under the circumstances, or (3) may terminate this contract for default as provided in the clause of this contract entitled "Termination for Default or Convenience of the Government." Failure to agree to the amount of any such increased cost to be charged to the Contractor or to such reduction in, or repayment of, the fixed fee shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(c) Notwithstanding the provisions of paragraph (b) hereof, the Government may at any time require the correction or replacement by the Contractor, without cost to the Government, of supplies or lots of supplies which are defective in material or workmanship, or otherwise not in conformity with the requirements of this contract, if such defects or failures are due to fraud, lack of good faith, or willful misconduct on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who has supervision or direction of (1) all or substantially all of the Contractor's business, or (2) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or (3) a separate and complete major industrial operation in connection with the performance of this contract. The Government may at any time also require correction or replacement by the Con-

tractor, without cost to the Government, of any such defective supplies or lots of supplies if the defects or failures are caused by one or more individual employees selected or retained by the Contractor after any such supervisory personnel has reasonable grounds to believe that such employee is habitually careless or otherwise unqualified.

(d) Corrected supplies or replaced supplies shall be subject to the provisions of this clause in the same manner and to the same extent as supplies originally delivered under this contract.

(e) The Contractor shall make his records of all inspection work available to the Government during the performance of this contract and for such longer period as may be specified in this contract.

(f) Except as provided in this clause and as may be provided in the Schedule, the Contractor shall have no obligation or liability to correct or replace supplies or lots of supplies which at the time of delivery are defective in material or workmanship or otherwise not in conformity with the requirements of this contract.

(g) Except as otherwise provided in the Schedule, the Contractor's obligation to correct or replace Government-furnished property (which is property in the possession of or acquired directly by the Government and delivered or otherwise made available to the Contractor) shall be governed by the provisions of the clause of this contract entitled "Government Property."

§ 1-7.202-6 Assignment of claims.

Insert the clause set forth in § 1-30.703 under the conditions prescribed therein.

§ 1-7.202-7 Examination of records by Comptroller General.

Insert the clause set forth in § 1-7.103-3.

§ 1-7.202-8 Subcontracts.

Insert the following clause in all cost-reimbursement type supply contracts:

SUBCONTRACTS

(a) The Contractor shall notify the Contracting Officer reasonably in advance of entering into any subcontract which (1) is cost-reimbursement type, time and materials, or labor-hour, or (2) is fixed-price type and exceeds in dollar amount either \$25,000 or 5% of the total estimated cost of this contract, or (3) provides for the fabrication, purchase, rental, installation, or other acquisition of special test equipment having a value in excess of \$1,000 or of any items of industrial facilities.

(b) In the case of a proposed subcontract which (1) is cost-reimbursement type, time and materials, or labor-hour, and would involve an estimated amount in excess of \$10,000, including any fee, or (2) is proposed to exceed \$100,000, or (3) is one of a number of subcontracts under this contract with a single subcontractor for the same or related supplies or services which, in the aggregate are expected to exceed \$100,000, the advance notification required by (a), above, shall include:

(1) A description of the supplies or services to be called for by the subcontract;

(2) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the degree of competition obtained;

(3) The proposed subcontract price, together with the Contractor's cost or price analysis thereof;

(4) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data when such data and certificate are required by

other provisions of this contract to be obtained from the subcontractor;

(5) Identification of the type of subcontract to be used;

(6) A memorandum of negotiation which sets forth the principal elements of the subcontract price negotiations. A copy of this memorandum shall be retained in the Contractor's file for the use of Government reviewing authorities. The memorandum shall be in sufficient detail to reflect the most significant considerations controlling the establishment of initial or revised prices. The memorandum should include an explanation of why cost or pricing data was, or was not required, and, if it was not required in the case of any price negotiation in excess of \$100,000, a statement of the basis for determining that the price resulted from or was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. If cost or pricing data was submitted and a certificate of cost or pricing data was required, the memorandum shall reflect the extent to which reliance was not placed upon the factual cost or pricing data submitted and the extent to which this data was not used by the Contractor in determining the total price objective and in negotiating the final price. The memorandum shall also reflect the extent to which it was recognized in the negotiation that any cost or pricing data submitted by the Contractor was not accurate, complete, or current; the action taken by the Contractor and the subcontractor as a result; and the effect, if any, of such defective data on the total price negotiated. Where the total price negotiated differs significantly from the Contractor's total price objective, the memorandum shall explain the difference; and

(7) When incentives are used, the memorandum of negotiation shall contain an explanation of the incentive fee/profit plan identifying each critical performance element, management decisions used to quantify each incentive element, reasons for incentives on particular performance characteristics, and a brief summary of trade-off possibilities considered as to cost, performance, and time.

(c) The Contractor shall obtain the written consent of the Contracting Officer prior to placing any subcontract for which advance notification is required under (a), above. The Contracting Officer may, in his discretion, ratify in writing any such subcontract; such action shall constitute the consent of the Contracting Officer as required by this paragraph (c).

(d) The Contractor agrees that no subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(e) The Contracting Officer may, in his discretion, specifically approve in writing any of the provisions of a subcontract. However, such approval or the consent of the Contracting Officer obtained as required by this clause shall not be construed to constitute a determination of the allowability of any cost under this contract, unless such approval specifically provides that it constitutes a determination of the allowability of such costs.

(f) The Contractor shall give the Contracting Officer immediate notice in writing of any action or suit filed, and prompt notice of any claim made against the Contractor by any subcontractor or vendor which, in the opinion of the Contractor, may result in litigation related in any way to this contract with respect to which the Contractor may be entitled to reimbursement from the Government.

(g) Notwithstanding paragraph (c), above, the Contractor may enter into subcontracts within (1) and (2) of paragraph (a), above,

without the consent of the Contracting Officer, if the Contracting Officer has approved in writing the Contractor's procurement system and the subcontract is within the scope of such approval.

(h) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to provide progress payments on the fixed-price subcontracts of those subcontractors which are small business concerns, in conformity with the standards for customary progress payments specified in Subpart 1-30.5, of the Federal Procurement Regulations (41 CFR 1-30.5), as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered as a handicap or adverse factor in the award of subcontracts.

§ 1-7.202-9 [Reserved]

§ 1-7.202-10 Termination for default or convenience of the Government.

Insert the clause set forth in § 1-8.702 in accordance with the conditions prescribed in §§ 1-8.700-2(a)(3) and 1-8.700-2(b)(2).

§ 1-7.202-11 Excusable delays.

Insert the clause set forth in § 1-8.708 under the conditions prescribed in § 1-8.700-2(c).

§ 1-7.202-12 Disputes.

Insert the clause set forth in § 1-7.102-12.

§ 1-7.202-13 [Reserved]

§ 1-7.202-14 Buy American Act.

Insert the clause set forth in § 1-6.104-5 under the conditions prescribed therein.

§ 1-7.202-15 Convict labor.

Insert the clause set forth in § 1-12.203 under the conditions prescribed in § 1-12.202.

§ 1-7.202-16 Contract Work Hours and Safety Standards Act—overtime compensation.

Insert the clause set forth in § 1-12.303 under the conditions prescribed in § 1-12.302.

§ 1-7.202-17 Walsh-Healey Public Contracts Act.

Insert the clause set forth in § 1-12.605 under the conditions prescribed in § 1-12.602.

§ 1-7.202-18 Equal opportunity.

Insert the clause set forth in § 1-12.803-2 under the conditions prescribed in § 1-12.803-1.

§ 1-7.202-19 Officials not to benefit.

Insert the clause set forth in § 1-7.102-17.

§ 1-7.202-20 Covenant against contingent fees.

Insert the clause set forth in § 1-1.503 under the conditions prescribed in § 1-1.501.

§ 1-7.202-21 [Reserved]

§ 1-7.202-22 Insurance-liability to third persons.

Insert the following clause in cost-reimbursement type supply contracts pur-

suant to the general policies set forth in Subpart 1-10.5. The clause may be supplemented to provide other types of coverage required by agency procedures.

INSURANCE—LIABILITY TO THIRD PERSONS

(a) The Contractor shall procure and thereafter maintain workmen's compensation, employer's liability, comprehensive general liability (bodily injury), and comprehensive automobile liability (bodily injury and property damage) insurance, with respect to performance under this contract, and such other insurance as the Contracting Officer may from time to time require with respect to performance under this contract: *Provided*, That the Contractor may with the approval of the Contracting Officer maintain a self-insurance program: *And provided further*, That with respect to workmen's compensation the Contractor is qualified pursuant to statutory authority. All insurance required pursuant to the provisions of this paragraph shall be in such form, in such amounts, and for such periods of time as the Contracting Officer may from time to time require or approve, and with insurers approved by the Contracting Officer.

(b) The Contractor agrees, to the extent and in the manner required by the Contracting Officer, to submit for the approval of the Contracting Officer any other insurance maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement hereunder.

(c) The Contractor shall be reimbursed (1) for the portion allocable to this contract of the reasonable cost of insurance as required or approved pursuant to the provisions of this clause, and (2) without regard to and as an exception to the "Limitation of Cost" or the "Limitation of Funds" clause of this contract, for liabilities to third persons for loss of or damage to property (other than property (i) owned, occupied, or used by the Contractor or rented to the Contractor, or (ii) in the care, custody, or control of the Contractor), or for death or bodily injury, not compensated by insurance or otherwise, arising out of the performance of this contract, whether or not caused by the negligence of the Contractor, his agents, servants, or employees: *Provided*, Such liabilities are represented by final judgments or by settlements approved in writing by the Government, and expenses incidental to such liabilities, except liabilities (A) for which the Contractor is otherwise responsible under the express terms of the clause or clauses, if any, specified in the Schedule, or (B) with respect to which the Contractor has failed to insure as required or maintain insurance as approved by the Contracting Officer, or (C) which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who has supervision or direction of (aa) all or substantially all of the Contractor's business, or (bb) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or (cc) a separate and complete major industrial operation in connection with the performance of this contract. The foregoing shall not restrict the right of the Contractor to be reimbursed for the cost of insurance maintained by the Contractor in connection with the performance of this contract, other than insurance required to be submitted for approval or required to be procured and maintained pursuant to the provisions of this clause: *Provided*, Such cost would constitute allowable cost under the clause of this con-

tract entitled "Allowable Cost, Fixed-Fee, and Payment."

(d) The Contractor shall give the Government or its representatives immediate notice of any suit or action filed, or prompt notice of any claim made, against the Contractor arising out of the performance of this contract, the cost and expense of which may be reimbursable to the Contractor under the provisions of this contract, and the risk of which is then uninsured or in which the amount claimed exceeds the amount of coverage. The Contractor shall furnish immediately to the Government copies of all pertinent papers received by the Contractor. If the amount of the liability claimed exceeds the amount of coverage, the Contractor shall authorize representatives of the Government to collaborate with counsel for the insurance carrier, if any, in settling or defending such claim. If the liability is not insured or covered by bond, the Contractor shall, if required by the Government, authorize representatives of the Government to settle or defend any such claim and to represent the Contractor in or take charge of any litigation in connection therewith: *Provided, however*, That the Contractor may, at his own expense, be associated with the representatives of the Government in the settlement or defense of any such claim or litigation.

§ 1-7.202-23 [Reserved]

§ 1-7.202-24 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in § 1-7.103-4.

§ 1-7.202-25 [Reserved]

§ 1-7.202-26 Utilization of small business concerns.

Insert the clause set forth in § 1-1.710-3(a) under the conditions and in the manner prescribed therein.

§ 1-7.202-27 Utilization of labor surplus area concerns.

Insert the clause set forth in § 1-1.805-3(a) under the conditions and in the manner prescribed therein.

§ 1-7.202-28 Utilization of minority business enterprises.

Insert the clause set forth in § 1-1.1310-2(a) under the conditions and in the manner prescribed therein.

§ 1-7.202-29 Payment for overtime premiums.

Insert the following clause when payment for overtime premiums is to be made in accordance with § 1-12.102:

PAYMENT FOR OVERTIME PREMIUMS

(a) Allowable cost shall not include any amount on account of overtime premiums except when (1) specified in (d), below, or (2) paid for work:

(i) Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(ii) By indirect labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(iii) In the performance of tests, industrial processes, laboratory procedures, loading or unloading of transportation media, and operations in flight or afloat, which are continuous in nature and cannot reason-

ably be interrupted or otherwise completed; or

(iv) Which will result in lower cost to the Government.

(b) The cost of overtime premiums otherwise allowable under (a), above, shall be allowed only to the extent the amount thereof is reasonable and properly allocable to the work under the contract.

(c) Any request for overtime, in addition to any amount specified in (d), below, will be for all overtime which can be estimated with reasonable certainty shall be used for the remainder of the contract, and shall contain the following:

(1) Identification of the work unit, such as the department or section in which the requested overtime will be used, together with present workload, manning and other data of the affected unit, sufficient to permit an evaluation by the Contracting Officer of the necessity for the overtime;

(2) The effect that denial of the request will have on the delivery or performance schedule of the contract;

(3) Reasons why the required work cannot be performed on the basis of utilizing multishift operations or by the employment of additional personnel; and

(4) The extent to which approval of overtime would affect the performance or payments in connection with any other Government contracts, together with any identification of such affected contracts.

(d) The Contractor is authorized to perform overtime, in addition to that performed under (a) (2), only to the extent, if any, specified elsewhere in this contract.

§ 1-7.202-30 Competition in subcontracting.

Insert the following clause in cost-reimbursement type supply contracts:

COMPETITION IN SUBCONTRACTING

The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practicable extent consistent with the objectives and requirements of the contract.

§ 1-7.202-31 Price reduction for defective cost or pricing data.

Insert the clause set forth in § 1-3.814-1 under the conditions prescribed therein.

§ 1-7.202-32 Audit and records.

See § 1-3.814-2(c) for audit and records requirements for cost-reimbursement type contracts. Agencies may use the clause set forth in § 1-3.814-2(a) to satisfy these requirements. However, agency audit and records clauses may be used provided that they give the contracting agency, as a minimum, substantially the same rights as provided by the clause set forth in § 1-3.814-2(a).

§ 1-7.202-33 Subcontractor cost and pricing data.

Insert the appropriate clause set forth in § 1-3.814-3 under the conditions prescribed therein.

§ 1-7.202-34 Payment of interest on contractors' claims.

Insert the clause set forth in § 1-1.322 under the conditions prescribed therein.

§ 1-7.202-35 Listing of employment openings.

Insert the clause set forth in § 1-12.1102-2 under the conditions and in the manner prescribed therein.

§ 1-7.202-36 Late offers and modifications or withdrawals.

(a) The provision set forth in § 1-3.802-1(b) shall be used in all negotiated solicitations except as provided by § 1-3.802-2(a).

(b) The provision set forth in § 1-3.802-2(b) may be used in negotiated solicitations under the conditions prescribed in § 1-3.802-2(a).

§ 1-7.203 Clauses to be used when applicable.

§ 1-7.203-1 Clauses for cost-reimbursement type supply contracts involving construction.

(a) Insert the clauses set forth in § 1-18.703-1 in cost-reimbursement type supply contracts under the conditions contained in § 1-18.701-1. The clauses set forth in § 1-12.403-1 are listed as follows:

- Davis-Bacon Act (40 U.S.C. 276a-276a-7). Contract Work Hours and Safety Standards Act—Overtime Compensation (40 U.S.C. 327-333).
- Apprentices and Trainees.
- Payrolls and Payroll Records.
- Compliance with Copeland Regulations.
- Withholding of Funds.
- Subcontracts.
- Contract Termination-Debarment.

(b) Insert the clause set forth in § 1-18.605 in cost-reimbursement type supply contracts under the conditions contained in Subpart 1-18.6.

§ 1-7.203-2 [Reserved]

§ 1-7.203-3 Notice to the Government of labor disputes.

Insert the following clause wherever a work stoppage would result in delay in an urgent program.

NOTICE TO THE GOVERNMENT OF LABOR DISPUTES

(a) Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to the Contracting Officer.

(b) The Contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract hereunder as to which a labor dispute may delay the timely performance of this contract; except that each such subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor shall immediately notify his next higher tier subcontractor, or the Prime Contractor, as the case may be, of all relevant information with respect to such disputes.

§ 1-7.203-4 [Reserved]

§ 1-7.203-5 [Reserved]

§ 1-7.203-6 [Reserved]

§ 1-7.203-7 [Reserved]

§ 1-7.203-8 [Reserved]

§ 1-7.203-9 Negotiated overhead rates.

Insert the clause set forth in § 1-3.704 under the conditions prescribed therein.

§ 1-7.203-10 Make-or-buy program.

Insert the clause set forth in § 1-3.902-3 under the conditions prescribed therein.

§ 1-7.203-11 Advance payments.

When advance payments are to be made in accordance with Subpart 1-30.4, insert the appropriate provisions as prescribed in § 1-30.414-2.

§ 1-7.203-12 Required source for jewel bearings.

Insert the clause set forth in § 1-1.319 under the conditions prescribed therein.

§ 1-7.203-13 General Services Administration supply sources.

Insert the following clause under the conditions set forth in Subpart 1-5.9:

GENERAL SERVICES ADMINISTRATION SUPPLY SOURCES

The Contracting Officer may issue the Contractor an authorization to utilize General Services Administration supply sources for property to be used in the performance of this contract. Title to all property acquired under such an authorization shall vest in the Government. All property acquired under such an authorization shall be subject to the provisions of the clause of this contract entitled "Government Property," except paragraphs (a) and (b) thereof.

§ 1-7.203-14 Use of interagency motor pool vehicles and related services.

Insert the following clause under the conditions set forth in Subpart 1-5.5.

INTERAGENCY MOTOR POOL VEHICLES AND RELATED SERVICES

The Contracting Officer may issue the Contractor an authorization to obtain interagency motor pool vehicles and related services for use in the performance of this contract. The use of interagency motor pool vehicles, their service and maintenance, and the use of related services by the Contractor shall be in accordance with 41 CFR 101-39.

§ 1-7.203-15 Interest.

Insert the following clause if, in accordance with agency procedures, amounts due the Government are to bear interest:

INTEREST

Notwithstanding any other provision of this contract, unless paid within 30 days, all amounts that become payable by the Contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code) shall bear interest at the rate determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97. Amounts shall be due upon the earliest of (a) the date fixed pursuant to this contract; (b) the date of the first written demand for payment, consistent with this contract, including demand consequent upon default termination; (c) the date of transmittal by the Government to the Contractor of a proposed supplemental agreement to confirm completed negotiations fixing the amount; or (d) if this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing

proposal or in connection with a negotiated pricing agreement not confirmed by contract supplement.

§ 1-7.203-16 Use of excess aluminum.

Insert the clause set forth in § 1-5.1001-2 under the conditions prescribed in § 1-5.1001-1.

§ 1-7.203-17 [Reserved]

§ 1-7.203-18 Small business subcontracting program.

Insert the clause set forth in § 1-1.710-3(b) under the conditions and in the manner prescribed therein.

§ 1-7.203-19 Labor surplus area subcontracting program.

Insert the clause set forth in § 1-1.805-3(b) under the conditions and in the manner prescribed therein.

§ 1-7.203-20 Minority business enterprises subcontracting program.

Insert the clause set forth in § 1-1.1310-2(b) under the conditions and in the manner prescribed therein.

§ 1-7.203-21 Government property.

(a) Insert the following clause when the Government is to furnish, or the contractor is to acquire, Government property:

GOVERNMENT PROPERTY

(a) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described as Government-furnished property in the Schedule or specifications, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-furnished Property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-furnished property suitable for use will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates. In the event that Government-furnished property is not delivered to the Contractor by such time or times, the Contracting Officer shall, upon timely written request made by the Contractor make a determination of the delay, if any, occasioned the Contractor and shall equitably adjust the estimated cost, fixed fee, or delivery or performance dates, or all of them, and any other contractual provisions affected by any such delay, in accordance with the procedures provided for in the clause of this contract entitled "Changes." In the event that Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt thereof notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (1) return such property at the Government's expense or otherwise dispose of the property, or (2) effect repairs or modifications. Upon completion of (1) or (2), above, the Contracting Officer upon written request of the Contractor shall equitably adjust the estimated cost, fixed fee, or delivery or performance dates, or all of them, and any other contractual provision affected by the return or disposition, or the repair or modification in accordance with the procedures provided for in the

clause of this contract entitled "Changes." The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished property or delivery of such property in a condition not suitable for its intended use.

(b) (1) By notice in writing, the Contracting Officer may (i) decrease the property furnished or to be furnished by the Government under this contract, or (ii) substitute other Government-owned property for property to be furnished by the Government, or to be acquired by the Contractor for the Government, under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct with respect to the removal and shipping of property covered by such notice.

(2) In the event of any decrease in or substitution of property pursuant to paragraph (1), above, or any withdrawal of authority to use property provided under any contract or lease, which property the Government had agreed in the Schedule to make available for the performance of this contract, the Contracting Officer, upon the written request of the Contractor (or, if the substitution of property causes a decrease in the cost of performance, on his own initiative), shall equitably adjust such contractual provisions as may be affected by the decrease, substitution, or withdrawal, in accordance with the procedures provided for in the "Changes" clause of this contract.

(c) Title to all property furnished by the Government shall remain in the Government. Title to all property purchased by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Government upon delivery of such property by the vendor. Title to other property, the cost of which is reimbursable to the Contractor under the contract, shall pass to and vest in the Government upon (1) issuance for use of such property in the performance of this contract, or (2) commencement of processing or use of such property in the performance of this contract, or (3) reimbursement of the cost thereof by the Government in whole or in part, whichever first occurs. All Government-furnished property, together with all property acquired by the Contractor title to which vests in the Government under this paragraph, are subject to the provisions of this clause and are hereinafter collectively referred to as "Government property." Title to the Government property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity as personality by reason of affixation to any realty.

(d) The Contractor shall be directly responsible for and accountable for all Government property provided under this contract. The contractor shall establish and maintain a system to control, protect, preserve, and maintain all Government property. This system shall, upon request by the Contracting Officer, be submitted for review and, if satisfactory, approved in writing by the Contracting Officer. The Contractor shall maintain and make available such records as are required by the approved system and must account for all Government property until relieved of responsibility therefor in accordance with the written instructions of the Contracting Officer. To the extent directed by the Contracting Officer, the Contractor shall identify Government property by marking, tagging, or segregating in such manner as to clearly indicate its ownership by the Government.

(e) The Government property shall, unless otherwise provided herein or approved by the Contracting Officer, be used only for the performance of this contract.

(f) The Contractor shall maintain and administer, in accordance with sound industrial practice, a program for the utilization, maintenance, repair, protection, and preservation of Government property so as to assure its full availability and usefulness for the performance of this contract. The Contractor shall take all reasonable steps to comply with all appropriate directions or instructions which the Contracting Officer may prescribe as reasonably necessary for the protection of Government property.

(g) (1) The Contractor shall not be liable for any loss of or damage to the Government property, or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto):

(i) Which results from willful misconduct or lack of good faith on the part of any one of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who has supervision or direction of:

(A) All or substantially all of the Contractor's business; or

(B) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or

(C) A separate and complete major industrial operation in connection with the performance of this contract.

(ii) Which results from a failure on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of any of his directors, officers, or other representatives mentioned in subparagraph (i), above:

(A) To maintain and administer, in accordance with sound industrial practice, the program for utilization, maintenance, repair, protection, and preservation of Government property as required by paragraph (f) hereof, or to take all reasonable steps to comply with any appropriate written direction of the Contracting Officer under paragraph (f) hereof; or

(B) To establish, maintain, and administer in accordance with paragraph (d) hereof a system for control of Government property.

(iii) For which the Contractor is otherwise responsible under the express terms of the clause or clauses designated in the Schedule;

(iv) Which results from a risk expressly required to be insured under this contract, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or

(v) Which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement.

Any failure of the Contractor to act, as provided in subparagraph (ii), above, shall be conclusively presumed to be a failure resulting from willful misconduct, or lack of good faith on the part of such directors, officers, or other representatives mentioned in subparagraph (i), above, if the Contractor is notified by the Contracting Officer by registered or certified mail addressed to one of such directors, officers, or other representatives, of the Government's disapproval, withdrawal of approval, or nonacceptance of the Contractor's program or system. In such event it shall be presumed that any loss or damage to Government prop-

erty resulted from such failure. The Contractor shall be liable for such loss or damage unless he can establish by clear and convincing evidence that such loss or damage did not result from his failure to maintain an approved program or system, or occurred during such time as an approved program or system for control of Government property was maintained.

If more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception. If the Contractor transfers Government property to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of or damage to the property as set forth above. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of or damage to the property while in the latter's possession or control, except to the extent that the subcontractor with the prior approval of the Contracting Officer, provides for the relief of the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received, except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of the prime contract.

(2) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance, or any provisions for a reserve, covering the risk of loss of or damage to the Government property, except to the extent that the Government may have required the Contractor to carry such insurance under any other provisions of this contract.

(3) Upon the happening of loss or destruction of or damage to the Government property, the Contractor shall notify the Contracting Officer thereof, and shall communicate with the loss and salvage organization, if any, now or hereafter designated by the Contracting Officer, and with the assistance of the loss and salvage organizations so designated (unless the Contracting Officer has designated that no such organization be employed), shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best possible order, and furnish to the Contracting Officer a statement of:

(i) The lost, destroyed, and damaged Government property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

The Contractor shall make repairs and renovations of the damaged Government property or take such other action as the Contracting Officer directs.

(4) In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of or damage to the Government property, he shall use the proceeds to repair, renovate, or replace the Government property involved, or shall credit such proceeds against the cost of the work covered by the contract, or shall otherwise reimburse the Government, as directed by the Contracting Officer. The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any such loss, destruction, or damage and, upon the request of the Contracting

Officer, shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where the subcontractor has not been relieved from liability for any loss or destruction of or damage to Government property, the Contractor shall enforce the liability of the subcontractor for such loss or destruction of or damage to the Government property for the benefit of the Government.

(h) The Government, and any persons designated by it, shall at all reasonable times have access to the premises where any of the Government property is located, for the purpose of inspecting the Government property.

(i) Upon the completion of this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit to the Contracting Officer in a form acceptable to him, inventory schedules covering all items of the Government property not consumed in the performance of this contract, or not theretofore delivered to the Government, and shall deliver or make such other disposal of such Government property as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the cost of the work covered by the contract or shall be paid in such manner as the Contracting Officer may direct. The foregoing provisions shall apply to scrap from Government property; *Provided, however,* That the Contracting Officer may authorize or direct the Contractor to omit from such inventory schedules any scrap consisting of faulty castings or forgings, or cutting and processing waste, such as chips, cuttings, borings, turnings, short ends, circles, trimmings, clippings, and remnants, and to dispose of such scrap in accordance with the Contractor's normal practice and account therefor as a part of general overhead or other reimbursable cost in accordance with the Contractor's established accounting procedures.

(j) Unless otherwise provided herein, the Government:

(1) May abandon any Government property in place, and thereupon all obligations of the Government regarding such abandoned property shall cease; and

(ii) Has no obligation to the Contractor with regard to restoration or rehabilitation of the Contractor's premises, neither in case of abandonment (paragraph (j) (1), above), disposition on completion of need or of the contract (paragraph (i), above), nor otherwise, except for restoration or rehabilitation costs caused by removal of Government property pursuant to paragraph (b), above.

(k) All communications issued pursuant to this clause shall be in writing.

(b) Paragraph (d) of the clause set forth in § 1-7.203-21(a) may be modified to provide that the Government will maintain the property records of Government property furnished to the contractor.

§ 1-7.204 Additional clauses.

The following clauses may be inserted in cost-reimbursement type supply contracts in accordance with agency procedures when it is desired to cover the subject matter thereof:

§ 1-7.204-1 Alterations in contract.

ALTERATIONS IN CONTRACT

The following alterations have been made in the provisions of this contract.

§ 1-7.204-2 Approval of contract.

APPROVAL OF CONTRACT

This contract shall be subject to the written approval of _____ or his duly authorized representative and shall not be binding until approved.

§ 1-7.204-3 Date of incurrence of costs.

DATE OF INCURRENCE OF COSTS

The Contractor shall be entitled to reimbursement for costs incurred in an amount not to exceed \$_____ on or after _____ which, if incurred after this contract had been entered into, would have been reimbursable under the provisions of this contract.

§ 1-7.204-4 Notice regarding late delivery.

NOTICE REGARDING LATE DELIVERY

In the event the Contractor encounters difficulty in meeting performance requirements, or anticipates difficulty in complying with the contract delivery schedule or date, the Contractor shall immediately notify the Contracting Officer thereof in writing, giving pertinent details, including the date by which it expects to complete performance or make delivery; *Provided, however,* That this data shall be informational only in character and that receipt thereof shall not be construed as a waiver by the Government of any contract delivery schedule or date, or any rights or remedies provided by law or under this contract.

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

Effective date. This amendment is effective July 1, 1974, but may be observed earlier.

Dated: January 7, 1974.

ARTHUR F. SAMPSON,
Administrator of General Services.
[FR Doc.74-993 Filed 1-11-74;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

Correction

In FR Doc. 73-26223, appearing on page 34117 for the issue of Tuesday, December 11, 1973, the effective date reading "January 5, 1974" should read "January 5, 1973".

Also the authority citation should read as follows:

(Sec. 215, 58 Stat. 690, as amended (42 U.S.C. 216))

Title 47—Telecommunication

CHAPTER I—FEDERAL
COMMUNICATIONS COMMISSION

PART 1—PRACTICE AND PROCEDURE
PART 73—RADIO BROADCAST SERVICES

[Docket No. 19667; FCC 74-24]

First Report and Order Regarding Main-
tenance of Program Records

1. The Commission has before it the proposal set forth in the Notice of Pro-

posed Rule Making in this proceeding (adopted January 4, 1973, 38 FR 1511, published January 15, 1973). In response to the Notice, a large number of parties filed formal or informal comments, and oral argument was also heard by the Commission en banc on November 20, 1973, pursuant to our Memorandum Opinion and Order adopted October 3, 1973 (FCC 73-1039, 38 FR 28947, published October 18, 1973.) All of these matters are now before us for resolution.

2. As set forth in the notice of proposed rulemaking, the Commission proposed rule changes which would open the program logs of radio and television stations to public inspection and lengthen the current two-year retention period for these logs.¹ Under this proposal all stations were to be included and the contemplated access was to be complete and unrestricted. After consideration of the filings, the Commission reached several conclusions, some firm, others tentative, about how to proceed to resolve the issues raised in this proceeding. These views were expressed in the above-mentioned Memorandum Opinion and Order which also invited participation in the oral argument which was scheduled for November 20, 1973. Thus, the Memorandum Opinion and Order did more than just provide a focus for discussion at the oral argument, it set forth the Commission's evaluation of some of the questions originally posed in this proceeding.²

3. Two principal points were made in the Commission's Memorandum Opinion and Order: (1) It would be preferable to defer action applicable to radio stations, so that any such action could be based on experience gained in connection with any rules providing for public inspection of the logs of television stations, and (2) action to lengthen the current two-year retention period for all program logs should await experience with public inspection of the logs which are now required to be retained. In effect, the Commission decided to focus only on possible methods for providing public access to television station program logs already required to be retained. There were other reasons for excluding radio, particularly the current re-regulatory efforts of the Commission and special problems raised by automatic logging.

4. As set forth in the Memorandum Opinion and Order, the Commission divided the occasions for possible access to television program logs into two categories. The first pertained to those occasions when a licensee relied upon program logs from days other than those of

¹There are certain special circumstances under which the current rules require a longer retention period, but these circumstances are not involved in the questions of overall policy which are to be addressed in the proceeding. See for example, § 73.115 of the rules.

²For the most part, the parties that appeared at the oral argument did not dispute the Commission's conclusions, but there were exceptions and they are dealt with in subsequent discussion.

a composite week³ in an effort to supplement the showing made regarding the station's performance. The second applied to all other circumstances.

5. We expressed the tentative view that if a licensee were able to utilize other logs to supplement its showing—on the premise that the composite week did not show typical station performance—that members of the public should also be able to gain access to all available logs. We also indicated an intention to explore an approach, under which access could be obtained, based on a "good cause" showing made to the station. This was intended to apply to cases where the composite week showing had not been supplemented. To apply in either instance, we put forward some suggested procedural requirements as possible ways to accomplish access and yet limit any burden which would thus be imposed on the affected broadcaster. Specifically, the Memorandum Opinion and Order mentioned the need for a prior appointment, the assumption of reproduction costs by the viewing party, the licensee's retention of control over the place of viewing and copying, and the imposition of a 30-day delay, after broadcast, before logs would become available for inspection. All of these points received attention at the oral argument and the information thus provided was necessarily more specifically directed to the issues now before us, than was the case with the earlier written filings. However, we shall have need to refer to both in the discussion which follows. Before discussing these topics it might be helpful to provide a brief description of program logs and the information they contain.

6. The Commission's rules require broadcast stations to maintain a program log and to retain it on file for two years.⁴ Essentially identical rules regarding log keeping apply to AM (§ 73.112), FM (§ 73.282) and noncommercial educational FM (§ 73.582) stations and to television stations (whether commercial or noncommercial) (§ 73.670). Likewise, the various stations are subject to the same requirement regarding retention of the logs—see, respectively, §§ 73.115; 73.285; 73.585; and 73.673.

7. Basically, the log is a listing of the matter broadcast by the station. It includes a list of the various programs and commercials which are carried and the public service and other announcements which are made. Programs are identified in the logs by name and type (i.e., agricultural, entertainment, news, public affairs, religious, instructional, sports and other; editorials, political programs and educational institution programs are included as sub-categories for use where

³ Since composite week logs themselves have been available for public inspection—see paragraph 3 of the Memorandum Opinion and Order—action in that regard is not here at issue.

⁴ The rules do not specify where the logs are to be stored, only that they be available for Commission inspection—see §§ 73.116; 73.286; 73.586; and 73.674.

appropriate). The starting and ending times of the programs are indicated, as is the inclusion of a program within another one, and the source of the program (i.e., local, network or recorded) is also noted.

8. For commercial matter, the sponsors (or equivalent) are indicated along with the time devoted to the commercial matter in question. The licensee may separately list the duration of each item of commercial matter or may list the total for each hour without giving an individual breakdown. The making of required announcements is also noted in the logs. These announcements take a number of forms, including those necessary for political broadcasts, those made in connection with local notice of Commission filings, and several others.

9. We begin our discussion with what is not now at issue and then will turn to the current parameters of what is at issue. Although our decision to postpone action regarding radio stations received relative little attention, some public representatives voiced a clear preference for including radio. Even so, they did not make this a major point. Although we understand why they would prefer to be able to have access to radio station program logs, their arguments did not offer any basis whatever for changing the decision to defer action regarding radio stations. In the absence of any persuasive arguments to rebut our initial view, we will affirm our decision to defer such action.

10. The possibility of a lengthened retention period, raised in the Notice but deferred by the Memorandum Opinion and Order, was given scant attention. Industry representatives addressing the point supported the deferral of action and public representatives offered no real rebuttal. Since this action would make a basic change in the record keeping requirements, we believe that it should not be taken unless supported by experience with public inspection. Moreover, any additional retention requirement could impose a serious burden. Thus, we would require a demonstration of a real advantage to be thus gained before we would take such a step. Such evidence is totally lacking. Accordingly, we affirm our decision to defer any such action and turn to those issues which are now involved and the light in which they are seen by the parties.

11. The proceeding began with a petition for rule making filed by the National Citizens Committee for Broadcasting ("NCCB"). Action on the part of their petition dealing with new record keeping requirements for all programs other than entertainment and sports was deferred to permit further study. As to the part of their petition which formed the basis of the Notice of Proposed Rule Making, NCCB offered several reasons to support public access. According to NCCB, community groups are not able to obtain a reliable analysis of a station's programming without being forced to conduct an elaborate and expensive monitoring of the station. In their view, being able to examine the logs of the days which

form the composite week used in connection with the triennial renewal application,⁵ provides only incomplete and outdated information. Lacking access to program logs is described as an impediment to effective public involvement during the license term, and because of filing deadlines, is said to add unnecessary burdens to filings in connection with renewal applications. Although strenuous oppositions were lodged against NCCB's petition, for the most part these oppositions were directed to those portions of the petition that have been deferred for later action. Generally, however, the opposing parties expressed the view that enough material is available for public inspection and that if the composite week is sufficient for Commission use, so should it be for public groups.

12. In deciding to issue the Notice of Proposed Rule Making, we saw several reasons to explore the subject further. We noted that no new record keeping effort would be required, as the program logs to be inspected were those already kept by each station. Since a number of files were already being maintained for public inspection, the question seemed only to be one of adding an item to the current list. This, we indicated, did not appear to be unduly burdensome. We observed, as we had on other previous occasions, the public interest is not best served by community involvement delayed until renewal time and then expressed only through a petition to deny. For all concerned, a continuing dialogue is to be preferred, and we expressed the hope that availability of the logs might well be beneficial in this regard.

13. The notice of proposed rule making we issued provoked a considerable response, with much of the opposition centered on lengthened retention, applicability to radio and the problems which would be raised for stations using automatic logging procedures. The first two of these points are not now at issue and the problem of how to deal with automatic logging is principally a question to be considered in connection with radio. However, there are a few television stations using automated procedures. As a result, we do need to consider the question of how to deal with television stations using automatic logging, and shall return to this point in later discussion. As a result of the focusing of the pleadings on the above points, much of the material was not of immediate applicability. Even though the pleadings went beyond these issues, the Commission concluded that more information was required and that an oral argument would be helpful in providing the information necessary to enable the Commission to reach its determinations.

14. At oral argument the various participants covered a large number of points, principally dealing with the ad-

⁵ Under our newly adopted renewal procedures, there will be an annual composite week, and the logs for these days will be available for public inspection as part of the station's public file.

vantages to be gained through public inspection of the program logs as contrasted with the costs and burdens which would be imposed by such a requirement. An obvious part of this dispute concerned what could or could not be gleaned from a reading of the logs. Thus, broadcasters pointed out that the logs provided no information on the content of the programs which were listed. Nor, they asserted, did the logs provide meaningful information of a qualitative nature to use in evaluating station performance. They also were at a loss to see how examination of the logs could aid in any licensee-public dialogue. To the extent such information was needed, broadcast spokesmen indicated that the public could obtain it from the program listings which appear in newspapers and *TV Guide*. With this in mind they saw no real need to see the logs. They pointed out that in any event listeners were free to do any monitoring they wished.

15. Public representatives took a quite different view. Although there earlier had been some mention in some of their pleadings of being able to use logs in connection with resolving questions like fairness, such was not the case at oral argument. Instead they dealt virtually exclusively with quantitative issues which the logs could resolve. In particular, they mentioned promise-versus-performance—i.e., whether a station has in fact presented programming in various categories as it stated it would when it filed its renewal application. It was their point that no newspaper or *TV Guide* listing would be an adequate substitute for the logs, since program categorization would not always be clear and last minute changes would not be reflected. The amount of commercialization, they pointed out, is not tallied in any form in these listings and appears only in the logs. As to monitoring as a substitute for inspection of the logs, they asserted that the costs involved would be prohibitive, and no matter how well trained the monitors, the process would be subject to human error. Thus, they concluded that the logs represent a unique source of information, one which is needed in furtherance of a public-broadcaster dialogue.

16. The two sides took notably different positions on the question of whether the logs would be enough used to warrant our proceeding to make them available. Based on their experience with use of the current public file at the stations, some broadcasters questioned whether the public really would care enough to bother to inspect the logs. It was their position, that absent an indication that the program logs would be much used, there was no reason to impose a burden by requiring stations to make them available. The public groups response was two-fold. They took the position that the logs would probably be used to a significant degree but argued that even if it were otherwise, there was no reason for concern, as no burden would then be imposed on the broadcasters whose files were not being examined.

17. Some broadcasters questioned the public's ability to understand the logs and saw this as another reason to doubt that public inspection would serve any useful purpose. The public groups that dealt with this point did not agree. To them, the logs were easy enough to understand. The consensus of those favoring public inspection was that any familiarization which was required could easily be accomplished.

18. From the written filings it was clear that the broadcasters were most concerned about the burden which public inspection of program logs would impose. Since we are not now considering public inspection for radio stations, the relatively greater impact on radio stations is not now at issue. Therefore, we shall not set forth the arguments that supply to radio alone. Nor need we now consider the arguments that are solely based on the additional burden attributable to a longer retention period. As to the nature of the burden which would be imposed under the current approach, it is necessary to examine it from two points of view. The first relates to actual out-of-pocket costs (duplication, employee time, etc.) and the second to what might be termed the potential for disruption. As to the first item, broadcaster pleadings dwelt at length on the costs of reproduction (with estimates as high as 35 cents per page), but under the proposal in our Memorandum Opinion and Order to require the assumption of costs by the viewing party, the concern on this score, as expressed at oral argument, was notably lessened. While acknowledging that the impact would be reduced, the view of some broadcasters remained one of opposition, since some costs would still in their view have to be borne by the broadcaster. Public representatives viewed these costs as relatively small and not a basis for refusing to implement our proposal. Some broadcast representatives apparently viewed the cost factor as less than a vital issue even were they to reproduce a complete set of logs for inspection purposes. ABC, for example, indicated that for each of its 5 owned and operated stations it could cost about \$1,800 yearly to copy a complete set of its logs,⁶ a cost which it did not seem to consider as imposing an onerous burden. Concern about the need for expanded storage space also was mentioned, but the record is not clear on the number of filing cabinets needed or the floor space which they require.

19. The Memorandum Opinion and Order also attempted to deal with the second aspect of possible burden by calling for the making of appointments⁷ by parties wishing to inspect the logs. Public representatives have not seen this as a real problem. They consider the alarms about descending hordes as not expectable based on their experience. Even so,

⁶ This is premised on 50 pages per day station and copies made at 10 cents per page.

⁷ To a degree, the contemplated "good cause" showing procedure also has a bearing on this point.

no real objection was made to requiring appointments. Broadcasters generally supported the contemplated procedural requirements. Nevertheless, they did express a concern that abuses could develop with attending disruption or burden occurring. In substance, they still wonder whether its all "worth it". As they see it, to justify imposing a public inspection requirement there must be some real gain and the broadcasters do not believe that there would be one sufficient to overcome the impact of the burdens imposed.

20. Although concern about use of the logs by competitors had been one of the major early points made by broadcasters, little of this concern was expressed in oral argument. In part, this may be attributable to the proposal to impose a 30-day delay before the logs could be inspected. While some expression was heard in favor of no delay or of a 60-day delay instead, most parties at the argument concurred in the 30-day approach.⁸ Even if having a 30-day delay might have answered concern that a competitor would be able to obtain information from the logs, it did not affect the earlier expressed concern over disclosure of the price information which is included on some station logs. The public response on this point was that stations should not be able to use the voluntary inclusion of unrequired information as a basis for non-disclosure. Their view was that such material could be deleted or just not be included in the first place. They did not contend that this was material which should be made publicly available.

21. Since the notion of a "good cause" showing was a new one, first expressed in the Memorandum Opinion and Order, no comment on this point was offered by the written filings. At the oral argument, several parties dealt with this point, expressing notably different views. In fact, the expressed views were in conflict to such a degree that one broadcast spokesman suggested that the result might well be that all members of the public would have access except those desiring to file an application in conflict with the station's renewal application. Another thought that such persons might be the only ones entitled to inspect. A number of participants questioned whether the concept of "good cause" showing would be workable, and they foresaw considerable difficulty in establishing any workable standard of what would constitute good cause. Some public representatives urged us to interpret good cause so as to include any genuine public effort to obtain the information contained in the logs. Particular attention was also directed to the availability of logs to researchers conducting academic subjects. The point made was that there is a real need for such research which could be useful for all, public and broadcaster. While agreeing that such research is indeed legitimate, the broadcasters who touched on the point wanted to be pro-

⁸ Since logs are frequently used for billing purposes, such a delay was also intended to avoid disruption of station billing procedures.

tected against being inundated by an entire class of students pursuing such a project. Such objections were not raised about inspection by individual researchers.

CONCLUSIONS

22. We believe that the record provides a sufficient basis for resolving several of the issues before us and reinforces our view that others should be deferred for later action. Although some have urged us to act to make radio as well as television station program logs public, we have been offered no basis for altering our conclusion in this regard. We had several reasons for deferring action and we need not repeat our reasoning at great length. Simply put, without some experience to guide us, there is no way to properly gauge the likely impact on radio stations. In addition, special problems are presented in relation to automatic logging and the need to coordinate any step with our current regulatory effort. Accordingly, we reaffirm our determination that action regarding radio stations needs to be deferred. Likewise, without evidence of how public inspection has functioned, we have no real way of determining if a change in the retention period is necessary. This, too, will be deferred.

23. In other areas, however, the record is sufficient and rules will be adopted. In the Memorandum Opinion and Order we expressed the view that fairness seemed to require that where a licensee has gone beyond the composite week to make a showing regarding the programming of a station, the public should be able to have access to the program logs to be able to develop their own showing. This situation engendered little comment at oral argument, with most of that which was offered being supportive of such a requirement. We are convinced that fairness requires our taking this step. The reasoning is simple indeed. The composite week is intended to be a random sample, but as with any such sample, statistical accuracy is not guaranteed. Where a licensee has believed that the composite week data was not reflective of typical station performance, it has been able to make a supplementary showing. However, an element of one-sidedness enters the picture here, as only a licensee has access to the logs to develop this supplementary data. Unless the logs are open to public inspection, the licensee can foreclose any real rebuttal. We do not believe it is fair or proper to permit a party's having sole possession of pertinent data to be able to rely on it without the public's having a like opportunity to examine the logs and submit data derived from them. If a licensee in effect put its entire programming in issue, not just the composite week, the public needs to have access to the entire two-year period of logs the station is required to retain.

24. What, then, when a station has not gone beyond a composite week showing or when this showing is not a matter at issue. In other words, should there be a regular inspection mechanism unrelated

to the pendency of any licensee filing based on a composite week? We think there should. While it is true that some of the earlier exaggerated expectations of what could be gained through public inspection⁹ could never be fulfilled, there is meaningful information to be derived from them. This information, essentially statistical in nature, covers programming and commercialization practices. Log-derived information can establish how much programming in which categories is carried at what times by the station. It also will reveal the sponsors and the amount of commercialization by the stations on an hourly basis¹⁰ and what public service announcements are carried when. This sort of information is not of a private or privileged character which by its nature needs to be kept confidential. Rather, it is the most public information, representing the essence of station performance described in statistical terms. Thus, the question is not of confidentiality as such but need for and impact of mechanisms for its disclosure. While program logs were not designed for public inspection, and while these logs were originally intended to serve various possible purposes for use by the Commission, it is also true that the logs constitute the only reliable and practical source of such information to members of the public. Reliance on *TV Guide* or newspaper listings cannot be expected to serve this purpose, as last-minute changes are not listed and program categorization is not always clear. Nor do these listings give any information whatever on commercial practices followed or public service announcements carried. What then of monitoring?

Even if absolute accuracy were to be assumed, problems would still remain. The costs would be extraordinarily high, thus precluding such efforts in many cases. Even if this were not so, there is a behind-the-scenes, almost surreptitious, quality to this practice that seems to us to be contrary to the spirit of dialogue. With the availability of log-derived information, dialogue can take place with all parties using as a starting point the same data. In sum, the objections to public inspection are not so much philosophical as practical, expressed in terms of the impact on broadcasters should public inspection be permitted.

25. When suggesting certain procedural requirements it was our intention to explore the possibility that the use of certain safeguards could minimize the burden and yet respond to legitimate public needs. On the whole, we believe

⁹ For instance, the argument that the logs would be of utility in resolving fairness disputes is most unlikely, as the logs would not be expected to show who spoke on what controversial issues.

¹⁰ For those stations choosing to do so, it may also be possible to know the length of the individual spot announcements and not just the hourly total of commercial time. The choice is entirely that of the station, and the record does not indicate the percentage of stations falling into either category.

that our tentative solution would accomplish this purpose. One change, however, seems appropriate. Originally, we thought in terms of a "good cause" showing by the party desiring to inspect the logs, but we were given little assistance at the oral argument in determining what would constitute "good cause" in such situations. In addition, such an approach would only produce redundancy, as successful showings would in all likelihood be copied by others. More importantly, since dialogue and the inspection procedures which are part of it, rest on the premise that public involvement is to be facilitated, such a requirement could be seen as expressing what might be taken as a contrary view. Yet, there are legitimate concerns of broadcasters which require recognition.

26. Accordingly, we shall reverse the requirement and allow broadcasters to refuse to permit inspection when good cause exists for such refusal. This better fits with the purposes of public inspection while still offering the broadcaster fair protection. As with the originally contemplated approach, any dispute could be brought to the Commission if it is not resolvable at the local level. At a minimum, the new approach saves much effort on the part of all concerned, when the likelihood is that most requests would be honored. Of course, some would not and under our approach need not be honored. Lacking experience with the operation of public inspection in this area, we are in no position to describe all situations in which there would be good cause for refusing to permit access. One clear example, however, which can be offered, is the situation in which the request represents an attempt at harassment. In addition, since the purpose of permitting access to the logs is to facilitate licensee/public dialogue, a request based solely on competitive considerations would not be a part of this process and on this basis it too could be denied. Whether it be a competitor of the licensee or a competitor of the licensee's advertisers, their purposes would be private ones. A licensee is not required to help to advance his competitors aims. Even so, we must recognize that if there is any public disclosure, some of the information might reach a competitor. However, as discussed below, one of the procedural safeguards is intended to offer some protection on this point too.

27. Because logs are often used for billing and other purposes at the station, immediate access could cause considerable disruption. To avoid this disruption we suggested a 30-day period after broadcast before logs would become available. This was intended to give time for completion of their use for billing, and even more importantly, to insure that the information would not be current enough to lend itself to unfair competitive use even if competitors somehow gain access to it. Periods other than 30 days have been mentioned, and we have been persuaded that an additional 15 days for a total of 45 would insure that there would be no disruption of the billing process. The public is not likely to be much affected

by a 45-day delay. Their concern is with continuing station performance and this 45-day delay mechanism would be expected to have little impact. Some public representatives have sought immediate access, but as we have mentioned, the cost in terms of disruption and possible unfair competition is too high and the gain is too small.

28. Whether their fears are exaggerated or not, the broadcasters make a legitimate point about the need to protect logs against loss or damage if the logs were removed from the licensee's control. To meet this we proposed a requirement that any reproduction of the logs would be at a location chosen by the station. This would permit the safeguarding of the logs whether the inspection/reproduction process took place at the station or elsewhere at a location of its choosing. The only negative point made about this requirement was the fear expressed by some public spokespeople that the station might select an inconvenient location or a company that made copies for much more than the going rate in the area. Even if we were to assume that such situations would develop, there is no way to tailor a rule provision to provide absolute protection. This is not to say, however, that we intend to sanction attempts to defeat the purposes of the new rules. While we do not expect the situation to arise, in the event a party believes such to have occurred, it should bring this matter to the Commission's attention if it is unresolvable through discussion with the licensee. One final point needs to be made in connection with the location of program logs for stations in various cities licensed to multiple owners. While certain economies could obviously result from use of a single depository for all stations, any such procedure would be antithetical to the dialogue which we hope public inspection will foster. Since the files do require a significant amount of storage space, we shall not require that the location be that of the local public file for the station. A substitute location which is locally accessible may be used instead. Moreover, the logs other than for the composite week may be stored in any location so long as they are made available for inspection locally upon request.

29. To respond to the possibility of disruption of station operation, we suggested use of a prior appointment procedure. Through use of this approach the visits could be scheduled in a way to avoid the impact of unexpected visits, without significantly inconveniencing members of the public. From what was said at oral argument, it may well be that the greatest impact would come from academic inquiries. The problem was not that of individual researchers but, for example, of a whole class in a communications course descending on a station unannounced. To deal with this, a station should be able to schedule the visit and if necessary to limit the number of students. All this would mean is that one or a few students would have to obtain the material for all. If the logs were maintained elsewhere than the station,

it might well be that no problem would occur, as they would simply be obtaining copies of the material they require.

30. The preceding discussion has focused on the use of copies, for the public filing have made it clear that their wish is for copies rather than going through the laborious effort of taking notes while spending hours at a station.¹¹ While there are advantages to all concerned in this simpler process, there are costs involved. Our tentative view was and our conclusion now is that the cost should be borne by the inspecting party. The costs involved would be a tiny fraction of those required for monitoring. It also seems to us unfair to impose these costs on the broadcaster who would derive no benefit from the making of copies. Moreover, to the extent that a risk of harassment exists, this requirement could be expected to do much to end that possibility. Since there are a wide variety of ways of making copies we do not intend to specify a particular price per copy or method of duplication leaving that to resolution by the parties. We do not believe, however, that this should be a profit making venture for the station. While it should not have to absorb the costs, neither should the public have to pay extra to enable the station to make a profit. This is not intended to preclude the making a profit by an outside service, for the making of copies is their business. In such cases, we would expect the usual rates to prevail.

31. Since there are situations in which the broadcaster would have good cause to refuse an inspection request, the broadcaster needs to know more than just the name and address of the inspecting party in order to be able to reach a judgment. Therefore, in contrast to the general identification requirement pertaining to examination of the public inspection file, which gives the name and address only, we shall require additional identification. Parties wishing to inspect shall make a prior appointment with the licensee and, at that time, shall identify themselves by name and address; shall identify the organization they represent, if any; and state the general purpose of the examination.

32. Finally, we need to consider what to do when the program log does not exist in its usual form. Although equipment for automatic logging for television stations does exist, the usual product is an English language¹² print-out which is just as usable for public inspection purposes as the traditional log, kept by hand. So far as the Commission is aware, no

¹¹ An inspection party should have a reasonable time to examine the program logs without cost. If examination is requested beyond a reasonable time, the rule permits the licensee to condition such further inspection upon the inspecting party's willingness to either duplicate such logs at the examiner's expense, or reimburse the licensee for whatever reasonable expense is incurred if supervision is deemed necessary.

¹² This is in contrast to some automatic logging machines for radio stations that provide a read-out only in symbols.

television stations other than ones owned and operated by NBC utilize a taping method for logging. Their system of audio and video taping at very slow speed does not lend itself to easy access. In fact, it became clear from the colloquy at oral argument, that no system based on access to these tapes could accommodate the needs of the broadcaster and public. Recognizing the fact that the solution is not ideal, we have concluded that in such cases, the station's pre-logs (operating schedules in the parlance of NBC) update to reflect last minute changes should be maintained for public access. Although this approach is less than ideal, the only other choices would mean no inspection or a required abandonment of this form of logging. Because of the special problems raised by automatic logging, we contemplate issuance of a further notice to gain additional information on this score. Based on the filings we receive we may find that special procedures will need to be adopted. In the meantime, it is our hope that the rules we adopt today can further dialogue and contribute to more effective cooperation.

33. Accordingly, it is ordered, That pursuant to the authority contained in sections 4(i), 303(g), (j) and (r) of the Communications Act of 1934, as amended, §§ 1.526 and 73.674 are amended, effective March 1, 1974, as described above and set forth below.

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

Adopted: January 3, 1974.

Released: January 9, 1974.

[SEAL] FEDERAL COMMUNICATIONS
COMMISSION,¹³
VINCENT J. MULLINS,
Secretary.

1. Section 1.526 is amended by adding new paragraph (a)(10) to read as follows:

§ 1.526 Records to be maintained locally for public inspection by applicants, permittees, and licensees.

(10) Although not part of the regular file for public inspection, program logs for television stations will be available for public inspection under the circumstances set forth in § 73.674 and discussed in the Public and Broadcasting Procedural Manual.

2. Section 73.674 is amended by inserting (a) before the present text and adding new paragraphs (b) and (c) to read as follows:

§ 73.674 Availability of logs and records.

(a) The program, operating, and maintenance logs shall be made available upon request by an authorized representative of the Commission.

(b) Television station program logs shall be made available upon request for

¹³ Commissioners Reid and Wiley concurring in the result.

public inspection and reproduction at a location convenient and accessible to the residents of the community to which the station is licensed. All such requests for inspection shall be subject to the procedural requirements set forth below. The licensee, however, may where good cause exists, as discussed in paragraph 64, the Public and Broadcasting Procedural Manual, refuse to permit such inspection. Notwithstanding the provisions of this section, permitting inspection elsewhere than the station, the licensee shall remain responsible for the safekeeping of the logs.

(c) In connection with requests for inspection the following procedural requirements shall govern:

(1) Parties wishing to inspect shall make a prior appointment with the licensee and, at that time, identify themselves by name and address; identify the organization they represent, if any; and state the general purpose of the examination.

(2) Inspection of the logs shall take place at the station or at such other convenient and accessible location as may be specified by the licensee. At its option the licensee may make an exact copy available in lieu of the original program logs.

(3) Copies of logs shall be available to the party desiring to inspect the logs, provided such party shall pay the reasonable costs of reproduction.

(4) An inspecting party shall have a reasonable time to examine the program logs. If examination is requested beyond a reasonable time, the licensee may condition such further inspection upon the inspecting party's willingness to either duplicate such logs at the examiner's expense, or reimburse the licensee for whatever reasonable expense is incurred if supervision is deemed necessary.

(5) No log need be made available for public inspection until 45 days have elapsed from the day covered by the log in question.

NOTE: In cases where the logging system employed does not provide for a written program log, the licensee shall retain, subject to the above provisions, copies of the station's pre-logs (operating schedules), updated and certified correct.

[FR Doc. 74-981 Filed 1-11-74; 8:45 am]

[FCC 74-3]

PART 15—RADIO FREQUENCY DEVICES
PART 18—INDUSTRIAL, SCIENTIFIC, AND MEDICAL EQUIPMENT

Order. In the matter of amendment of Part 15 and Part 18 of the Commission's Rules to conform with the International Radio Regulations, as revised by the Space WARC, Geneva, 1971.

1. On February 14, 1973, the Commission adopted a Report and Order¹ which amended certain allocations in the Table of Frequency Allocations, § 2.106 of

¹ Docket No. 19547, Report and Order adopted February 14, 1973 (38 FR 5562).

Part 2. This amendment, which became effective March 1, 1973, aligns appropriate frequency allocations in Part 2 with those revisions² made in the International Radio Regulations approved at the 1971 World Administrative Conference for Space Telecommunications (WARC). To provide frequency bands for space radio communication purposes, the WARC partially revised the Radio Regulations (Geneva, 1959). Among the revised provisions, the frequency, 22.125 GHz, formerly designated for industrial, scientific, and medical purposes, was redesignated as 24.125 GHz. Part 2 of the Commission's rules presently reflect this change.

2. The attached appendix hereby amends Part 15 and Part 18 of the Commission's rules so that the previously designated ISM frequency of 22.125 GHz is now deleted and the frequency of 24.125 GHz is added as the new ISM frequency allocation to conform with the stated revision to the Radio Regulations (Geneva, 1971). The Commission's equipment files do not list nor do we have any information indicating that any devices covered by Part 15 and Part 18 of the Commission's Rules are presently operating in the frequency range of 22,000-22,250 MHz. Consequently, no provision need be included in this proceeding regarding the continued operation of such devices.

3. In view of the fact that these changes are designed to conform to revision of the Radio Regulations (Geneva, 1971), and no devices are operating in the frequencies affected, notice and opportunity for comment are unnecessary. Accordingly, it is ordered, Pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, That effective February 19, 1974 Parts 15 and 18 are amended as set forth below.

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

Adopted: January 3, 1974.

Released: January 8, 1974.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

Parts 15 and 18 of Chapter I of Title 47 of Code of Federal Regulations are amended as follows:

1. Section 15.214(c) is amended by the insertion of the frequency range 24000-24250 MHz in lieu of the frequency range 22000-22250 MHz. As amended § 15.214 (c) reads:

§ 15.214 Alternative provisions for measuring devices.

(c) The device shall operate within the following frequency limits:

² The addition of note 410C Spa 2 to Article 5, WARC for Space Telecommunications, Geneva, 1971 to designate 24.125 GHz, ±125 MHz, for ISM purposes.

| MHz | 890-940 (see note) |
|---------------|--------------------|
| 13.554-13.566 | 2400-2500 |
| 26.96-27.28 | 5725-5875 |
| 40.66-40.70 | 24000-24250 |

NOTE: The frequency band 890-940 MHz is subject to change pursuant to the reallocation of frequencies that may be made in the band 806-960 MHz in the rule making proceeding in Docket No. 18262.

2. Section 15.307 is amended by the insertion of the frequency 24,125 MHz, ±50 MHz, in lieu of the frequency 22,125 MHz, ±50 MHz. As amended § 15.307 reads:

§ 15.307 Permitted bands of operation.

The carrier frequency of a field disturbance sensor operating on one of the frequencies listed in 15.305(b) and any modulation components thereof shall be kept within the following limits:

| Nominal operating frequency (MHz) | Band limits (MHz) |
|-----------------------------------|-------------------|
| 915 | ±13 |
| 2450 | ±15 |
| 5800 | ±15 |
| 10,525 | ±25 |
| 24,125 | ±50 |

NOTE: To minimize the possibility of out-of-band operation because of frequency drift due to aging of components or other causes, it is recommended that the carrier frequency be kept within the central 80 percent of the permitted tolerance limits.

3. Section 15.309 (a) and (c) is amended by the insertion of the frequency 24,125 MHz in lieu of the frequency 22,125 MHz. As amended § 15.309 (a) and (c) reads:

§ 15.309 Emission limitations.

(a) For a field disturbance sensor operating on any frequency listed in Section 15.307, the field strength of emissions on the fundamental shall be limited in accordance with the following:

| Frequency (MHz) | Field Strength |
|-----------------|-------------------------|
| 915 | 50,000 μV/m at 100 ft. |
| 2450 | |
| 5800 | |
| 10,525 | 250,000 μV/m at 100 ft. |
| 24,125 | |

(c) Harmonic emissions from sensors operating in bands centered on 10,525 and 24,125 MHz shall not exceed a level of 2,500 microvolts per meter at 100 ft. Spurious emissions except harmonics shall be suppressed at least 50 dB below the level of the fundamental; however, suppression below 15 microvolts per meter at 100 feet is not required.

NOTE: For pulsed operation, measured field strength shall be determined from the averaged absolute voltage during a 0.1 second interval when field strength is at its maximum value. Below 1000 MHz, the measurement bandwidth shall comply with the requirements set out in the American National Standards Institute Specifications C63.2-1963 and C63.3-1964. Above 1000 MHz the measurement bandwidth shall be 5 MHz.

4. Section 18.13 is amended by the insertion of the frequency 24,125 MHz with a frequency tolerance of ± 125.0 MHz in lieu of the frequency 22,125 MHz with a tolerance of ± 125.0 MHz. As amended § 18.13 reads:

§ 18.13 ISM frequencies and frequency tolerances.

The following frequencies are allocated for use by ISM equipment with the tolerance limits specified:

| ISM frequency | Frequency tolerance |
|-------------------------|---------------------|
| 13,560 kHz | ± 6.78 kHz. |
| 27,120 kHz | ± 160.0 kHz. |
| 40,680 kHz | ± 20.0 kHz. |
| 915 MHz ^{1, 2} | ± 13.0 MHz. |
| 2,450 MHz ¹ | ± 50.0 MHz. |
| 5,800 MHz ¹ | ± 75.0 MHz. |
| 24,125 MHz ¹ | ± 125.0 MHz. |

¹The use of this frequency is subject to the conditions in Section 18.14.

²Equipment designed to operate on 915 MHz for which original type approval or certification is sought on or after an early but presently unspecified date must comply with the frequency tolerance of ± 13 MHz; such equipment approved or certified prior to this date must be resubmitted for type approval to show compliance with the ± 13 MHz frequency tolerance 5 years following the above date. The possible need for a date by which all ISM devices must comply with the new ± 13 MHz limits is under study in Docket 18262. It is expected that the above dates can be designated upon the completion of proceedings in that docket. In the interim, the limits ± 25 MHz shall continue to be applicable.

5. Section 18.14 is amended by the insertion of the frequency 24,125 MHz in lieu of the frequency 22,125 MHz. As amended Section 18.14 reads:

§ 18.14 Operation on microwave frequencies.

Except for industrial heating equipment which is regulated by § 18.101 through 18.122, inclusive, ISM equipment may be operated on the microwave frequencies (915 MHz, 2450 MHz, 5800 MHz and 24,125 MHz) subject to the following conditions:

(a) The emission of radio frequency energy resulting from such operation shall be on the particular frequency and must not exceed tolerance limits associated with each such frequency as set forth in Section 18.13.

(b) The energy radiated and the bandwidth of emissions shall be reduced to the greatest extent practicable.

(c) No harmful interference shall be caused to authorized communication services from spurious or harmonic radiation. In the event of such harmful interference, operation of the ISM equipment causing such harmful interference shall cease and shall not be resumed until steps necessary to eliminate such interference have been taken.

6. Section 18.141(a) is amended by the insertion of the frequency 24,125 MHz with frequency tolerance ± 125.0 MHz in lieu of frequency 22,125 MHz with frequency tolerance ± 125 MHz. As amended § 18.141 reads:

§ 18.141 Operation on assigned frequencies.

A station license is not required for the operation of medical diathermy equipment on assigned frequencies provided such operation meets the following conditions:

(a) Such operation must conform to the general condition set out in the guarantee of certificate required by paragraphs (c) and (d) of this section. Operation must be confined to one or more of the frequencies:

| ISM frequency | Frequency tolerance |
|-------------------------|---------------------|
| 13,560 kHz | ± 6.78 kHz. |
| 27,120 kHz | ± 160.0 kHz. |
| 40,680 kHz | ± 20.0 kHz. |
| 915 MHz ^{1, 2} | ± 13.0 MHz. |
| 2,450 MHz ¹ | ± 50.0 MHz. |
| 5,800 MHz ¹ | ± 75.0 MHz. |
| 24,125 MHz ¹ | ± 125.0 MHz. |

¹The use of this frequency is subject to the conditions in Section 18.14.

²Equipment designed to operate on 915 MHz for which original type approval or certification is sought on or after an early but presently unspecified date must comply with the frequency tolerance of ± 13 MHz; such equipment approved or certified prior to this date must be resubmitted for type approval to show compliance with the ± 13 MHz frequency tolerance 5 years following the above date. The possible need for a date by which all ISM devices must comply with the new ± 13 MHz limits is under study in Docket No. 18262. It is expected that the above dates can be designated upon the completion of proceedings in that docket. In the interim, the limits ± 25 MHz shall continue to be applicable.

7. Section 18.144 is amended by the insertion of the frequency 24,125 MHz in lieu of the frequency 22,125 MHz which appears in the note at the end of the section. As amended § 18.144 reads:

§ 18.144 Procedure for type approval.

NOTE: Medical diathermy equipment operated on 915 MHz, 2450 MHz, 5800 MHz or 24,125 MHz will be eligible for type approval upon a determination by the Chief Engineer of compliance with the requirements of the Commission's public notice and order of December 26, 1946, which requirements are set forth in § 18.14.

[FR Doc.74-982 Filed 1-11-74;8:45 am]

[Docket No. 19707; FCC 74-21]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments, FM Broadcast Station in Sault Ste. Marie, Mich.

Report and order. In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Sault Ste. Marie, Michigan), Docket No. 19707, RM-1916, RM-2125.

1. The Commission has before it for consideration the alternative proposals for amending the FM Table of Assignments as concerns Sault Ste. Marie, Michigan, upon which notice of proposed rulemaking was released herein on March 19, 1973 (FCC 73-299, 38 FR 7576), in consideration of petitions filed by Patterson Communications, Inc. (Patterson), former licensee of Station

WSOO, Class IV AM station at Sault Ste. Marie, and by Miami County Broadcasting Co., Inc. (Miami), the present WSOO licensee.¹ The Patterson petition (RM-1916) proposed the assignment of Class C Channel 267 to Sault Ste. Marie. The Miami petition (RM-2125) requested that Class C Channel 258 be assigned to the community. The alternative FM proposals upon which comments were invited are the following:

| City | Channel No. | |
|--------------------------|-----------------------|----------|
| | Present | Proposed |
| Sault Ste. Marie, Mich. | 224A | |
| Proposed Alternative I | 224A, 237A | |
| Proposed Alternative II | 258, 267 ² | |
| Proposed Alternative III | 224A, 258 (or 267) | |

² Since this alternative proposal would delete Channel 224A from Sault Ste. Marie, which is occupied by Station WSMM(FM), the rule making notice also ordered its licensee, Leon B. Van Dam, trading as Lock City Broadcasting Co., to show cause why his license for Station WSMM should not be modified to specify operation on channel 258 or Channel 267 in lieu of Channel 224A if this alternative proposal is adopted.

2. Sault Ste. Marie, a community with a population of 15,136 in Chippewa County, Michigan (population 32,412), of which it is the seat and largest community, is located in the northern upper Michigan Peninsula, approximately 200 miles north of Bay City, Michigan (population 49,449), the nearest community of substantial size. The only aural broadcast stations in the community and Chippewa County are the Class IV AM station of the petitioner (Miami), Station WSOO, and Station WSMM(FM), licensed to Leon B. Van Dam, tr/as Lock City Broadcasting Company (Van Dam), which operates on Channel 224A, the only FM channel presently assigned to Sault Ste. Marie. The nearest other United States FM stations are located in the lower Michigan Peninsula at Cheboygan, approximately 60 miles south of Sault Ste. Marie, and at Potoskey, approximately 77 miles southwest of the community.³ The nearest other FM station in the upper Michigan Peninsula is at Marquette, Michigan, approximately 145 miles west of Sault Ste. Marie.

3. Chippewa County is geographically a large county (1,562 square miles), the most distant points of which lie 55 miles from Sault Ste. Marie, and it appeared from the prior showings of the petitioners that neither the limited-coverage Class A FM station at Sault Ste. Marie nor the local Class IV AM station, with its limited nighttime interference-free

¹ The application for assignment of license of Station WSOO from Patterson to Miami was filed on November 14, 1972 (after the Patterson petition for rulemaking on its Sault Ste. Marie Channel 267 proposal was filed) and granted April 3, 1973 (BAL-7732). It is noted that it does not appear from the assignment application or the record herein that Patterson continues to be interested in furthering its Class C FM proposal and previously contemplated plans for establishing a new FM outlet at Sault Ste. Marie.

³ There are also two Canadian Class C FM stations at Sault Ste. Marie, Ontario, a city of approximately 75,000, neighboring Sault Ste. Marie, Michigan.

service area, are technically capable of serving all of the county satisfactorily or meeting its needs for locally-oriented aural broadcast service. It was stressed by the petitioners that a wide-coverage broadcast service, which a Class C FM channel is designed to provide, is particularly essential and needed in this relatively isolated northern area in view of the severe winter weather conditions and the great importance of broadcasts of road conditions and school closings to the area. While of the view that the petitioners had made a sufficient showing of the need for a wide-coverage Class C service in this region to warrant rule making on their proposals, we were concerned that adding a Class C channel at Sault Ste. Marie where there is an existing local Class A station might not make for a healthy competitive situation. As stated in the notice, under some circumstances, we have intermixed Class A with Class B or C assignments in the same community. Generally, however, we believe it should be avoided insofar as feasible in order to enable all local stations to have technically comparable facilities for service and competition. Since available FM channels which could be assigned to this area appear in ample supply, we decided that it was in the public interest to explore the desirability of assigning an additional Class A channel or two Class C channels to Sault Ste. Marie as an alternative to the petitioners' proposals to add one Class C assignment to the community. We therefore invited comments on the three alternative proposals set out above.

4. The petitioner (Miami) filed comments and reply comments in support of the adoption of either the Alternative II proposal for deleting Channel 224A and assigning two Class C channels (258 and 267) to Sault Ste. Marie or the Alternative III proposal for retaining Channel 224A at Sault Ste. Marie and adding one Class C channel (258 or 267) there. It opposed adoption of the Alternative I proposal for assigning a second Class A channel (237A) to Sault Ste. Marie. Miami states that, if either of the Alternative II or III proposals are adopted and a Class C assignment is thereby made available for application, it will immediately apply for its use and, if authorized, promptly construct a new station. In support of the alternative Class C proposals, Miami urges that only Class C channels can meet the need of the area for a wide coverage radio voice and provide service to areas that are unserved or underserved and that the problem could not be resolved by assigning another Class A channel to Sault Ste. Marie. Miami also included with its comments and reply comments copies of letters received from the local Chamber of Commerce, leaders of Sault Ste. Marie and the vicinity, and its AM station's listeners, to evidence that there is need and support for wide coverage aural broadcast service in the area.

5. Comments in opposition to all three of the alternative proposals for providing Sault Ste. Marie with a second Class A or a first or second Class C assignment were filed by L. B. Van Dam, licensee of Station WSM (FM), which operates on the Sault Ste. Marie Channel 224A assignment. As a counterproposal, he proposes that all alternative changes proposed in the notice be denied; that Class C Channel 258 be substituted for Channel 224A upon which he operates Station WSM (FM) at Sault Ste. Marie; that Class C Channel 267 be assigned to Rogers City, Michigan, for a first FM assignment;⁴ and that Channel 237A be assigned to Newberry, Michigan, for a first FM assignment.⁵ In answer to the Show Cause Order issued to him with the notice, Van Dam informs that he is not adverse to shifting from operation on a Class A channel to a Class C channel at Sault Ste. Marie in spite of the expense; that he believes that such a move would be advantageous for increasing service and intensifying the signal of his FM station in the area; and that he is of the view that, while cash funds are not on hand, he could make financial arrangements to accommodate such a move if directed to do so.

6. In his opposing comments on the alternative proposals for adding a second Class A or Class C assignment at Sault Ste. Marie, Van Dam claims that his Class A station at Sault Ste. Marie (WSM (FM)) is fulfilling any need for FM coverage that existed prior to the time it went on the air, as evidenced by letters accompanying his comments from city and school officials in Sault Ste. Marie and the area, and that he questions the need for a second FM assignment to Sault Ste. Marie at this time. He states that the Class A assignment at Sault Ste. Marie remained available for many years before he made application for it, and neither Miami nor other broadcasters in the area sought its use; that conditions have not changed appreciably over the years except that the area has diminished in population⁶ and is a depressed area by federal standards; and that the Class A and C channels alternatively proposed for Sault Ste.

⁴ Van Dam appears to be unaware that Rogers City (1970 population, 4,275), located in Presque Isle County (1970 population, 12,836), approximately 80 miles south southwest of Sault Ste. Marie, is presently assigned Channel 249A (unused) in the FM Table of Assignments. While it has no FM outlet, Rogers City has one AM station (WHAK), a 5 kW daytime-only operation.

⁵ Newberry, Michigan (1970 population, 2,334) is located in Luce County (1970 population, 6,789), approximately 55 miles southwest of Sault Ste. Marie. Luce County adjoins Chippewa County on the west. While without an FM assignment or outlet, Newberry has one Class IV AM station (WNBX).

⁶ The 1970 U.S. Census shows that between 1960 and 1970, Sault Ste. Marie had a 19.2 percent decrease in population (from 18,722 to 15,136) and that Chippewa County as a whole had a 0.7 percent population decline (from 32,655 to 32,412).

Marie might be better used in other more isolated and underserved areas of the state, such as Newberry in the Upper Peninsula, and Rogers City in the northern part of the Lower Peninsula, since both are population centers without an FM outlet.

7. Van Dam is also of the view that, since Sault Ste. Marie has a Class IV AM station, a Class A FM station, plus a TV station (WWUP-TV, Channel 10, a satellite of Station WWTW, Cadillac, Michigan), a daily newspaper, and is served by several outside broadcast signals, including those from two Canadian stations at Ontario, less than a mile from Sault Ste. Marie, and a station at Cheboygan, Michigan, approximately 50 miles to the south, the area would receive no positive benefit from an additional FM assignment or from changing the present FM assignments. He claims that the local market situation is well balanced, with all media under separate ownership and working for the betterment of the community and area, and that other markets in the adjacent Newberry and St. Ignace⁷ areas are served by their local AM stations, with their respective communities their main concern. While on one hand he urges that to impose one or two "high power" signals on the area would not enhance radio service to the area, on the other hand, he states in support of his counterproposal and in answer to the Show Cause order that the substitution of Class C Channel 258 for Channel 224A, and the modification of his license for Channel 224A accordingly, would be advantageous, since it would allow increased service and opportunity to intensify the signal of his station in the area now served. As another claimed advantage, he states that deleting the Sault Ste. Marie Channel 224A assignment would eliminate any possibility of third harmonic difficulty with the U.S. Radar Base which uses 278.1 MHz at Sault Ste. Marie.

8. Informal comments (letters) were also received from Jeff Sainio, Chief Engineer of the Newberry Class IV AM station (WNBX), and from R. H. Ramsay, President and General Manager of Hyland Radio-TV, Limited, the licensee of Station CJIC-FM, which operates on Class C Channel 263, at Sault Ste. Marie, Ontario. Mr. Sainio opposes an additional FM assignment to Sault Ste. Marie, particularly a wide-coverage Class C assignment, since he believes it would have a detrimental effect upon the Newberry market area. He states that the Luce County area in which Newberry is located has available AM and FM coverage from several sources, and that the imposition of a "super-power" FM signal from Sault Ste. Marie would have a pulling

⁷ St. Ignace (1970 population 2,892), is located in Mackinac County (1970 population 9,960), approximately 47 miles south of Sault Ste. Marie. As Van Dam points out, St. Ignace has an AM station (WDIG), a five kW daytime-only operation. St. Ignace also has an unused FM assignment, Channel 272A.

power to further split the markets in this area of the Upper Michigan Peninsula, and would contribute to the growth of only the Sault Ste. Marie area, which already has many advantages over Newberry. He suggests that Newberry should instead be considered for a Class A FM assignment to provide the area with better nighttime aural broadcast coverage. Mr. Ramsay is of the view that the Sault Ste. Marie, Michigan and Sault Ste. Marie, Ontario, areas are already adequately served with a multiplicity of FM signals. While not interposing formal objection to the proposals before us (he appears to be aware of only the Miami proposal to add a Class C channel at Sault Ste. Marie), he suggests a complete study of the present circumstances.

9. In its reply comments, Miami states that its real interest in the Sault Ste. Marie area commenced with its acquisition of Station WSOO there and that, when it then became apparent that the area was not receiving the aural broadcast service it needed and deserved, it acted immediately to ascertain the extent of the need for service and to take steps to remedy the situation. It contends that it is clear that the needs of the area for locally-oriented aural radio service can only be satisfactorily met by the establishment of one or more high power Class C FM facilities, such as the Alternative II and III assignment proposals herein would permit, and that the problem cannot be solved by an additional Class A FM assignment. Miami also believes that a wide-coverage Class C station in Chippewa County, closely associated with the residents and local business people, could help to reverse the declining population trend mentioned by Van Dam, and, considering the letters received from its listeners, business people, and other leaders in Sault Ste. Marie and the area, Miami disputes Van Dam's claims that no positive benefit to the area would result from making it possible for it to have aural radio service from one or two high power FM stations at Sault Ste. Marie. As for the claimed multiplicity of FM signals in the Sault Ste. Marie area, Miami submits that the only "local" FM signals now serving this Michigan area are those of the Sault Ste. Marie Class A station, since the two neighboring Canadian FM stations in Ontario can in no sense be considered local United States radio facilities which fulfill the needs of these Michigan area residents for locally-oriented service, as letters from its listeners indicate, and the nearest other United States FM station is 60 miles distant at Cheboygan, Michigan, in the Lower Peninsula.⁸

10. Miami further urges that the alternative proposals for providing Sault Ste. Marie with one or two Class C channels can be adopted without precluding other isolated and underserved areas, such as Newberry and Rogers City, in northern Michigan from having a first

FM service since there are other available channels that could be assigned to them. Rogers City, he points out, has an unused Class A FM assignment which could provide it with a first local service should someone desire to establish a station there. While Newberry has no FM assignment, Miami states that it is not opposed to the establishment of an FM station there and feels that should the local AM station licensee petition for an FM assignment for that purpose it might be favorably acted upon since there are several Class A FM channels which could be assigned there.

11. None of the alternative proposals upon which comments were invited, or the alternative Van Dam counterproposal, for adding a Class A assignment (237A) to Sault Ste. Marie for a second Class A assignment; for assigning one or two Class C channels (either 258 or 267 or both channels) to the community by deleting the existing occupied Channel 224A assignment; or for retaining Channel 224A at Sault Ste. Marie and adding one Class C assignment (258 or 267) are objectionable for technical or preclusionary reasons. All would conform with mileage separation requirements and would require no changes in existing assignments in other communities. In the precluded areas, most of the communities have assignments and are not of a size to warrant additional channels, and there are other available channels which may be assigned to them and other communities to meet arising future needs. Also, the Canadian Government has advised that it has no objection to any of the alternatively proposed assignments to Sault Ste. Marie. These considerations aside, we must also decide which, if any, of these alternative proposals would have sufficient public interest value to the Sault Ste. Marie area and potential for advancing our FM goals to warrant adoption.

12. While Sault Ste. Marie has experienced a population decline since 1960, it is still of a size (pop. 15,136) to qualify for a second FM assignment under our assignment guidelines if otherwise warranted. Normally, however, it would be considered for a second Class A assignment in view of its size and since it has one occupied Class A assignment, for it is our general policy to assign wide-coverage Class B or C channels to large cities and metropolitan areas and Class A channels to the smaller communities, and, as previously mentioned, to avoid insofar as possible, the intermixture of Class A and C channels in the same community. As we have frequently mentioned, however, these policies are not immutable standards and are but one of many considerations to be weighed in determining what best serves the public interest and our FM objectives in a given case.

13. In this case, even though Sault Ste. Marie, as a community, would not in itself normally merit Class C assignments, after careful consideration of the comments and data submitted in the proceeding, we have decided that they are nevertheless warranted. Sault Ste. Marie,

the only sizeable community in Chippewa County and this Michigan area, is the only one in which interest and demand for local aural outlets has been shown, and it appears likely that for the foreseeable future residents of this area must look to the local aural broadcast outlets at Sault Ste. Marie for radio service primarily oriented to their needs and concerns. It is, therefore, most important, we feel, that Sault Ste. Marie be provided with FM assignments most capable from a technical standpoint for serving this area satisfactorily, especially since the local Class IV AM station at Sault Ste. Marie, the only AM outlet in the county, with its limited nighttime interference-free service area, is technically incapable of meeting wide-area needs for nighttime radio service. Limiting Sault Ste. Marie to its present one Class A assignment or adding another Class A assignment there, we are convinced, has no realistic potential for meeting the needs of residents of this area for a choice of at least two comparable full-time aural broadcast services, considering the technical limitations of Class A channels for coverage. The likely result, we feel certain, would be that a substantial number of communities and residents outside the vicinity of Sault Ste. Marie and in the outer reaches of the county, with most essential needs for FM service oriented to their concerns, would continue to remain unserved or underserved. Class C channels, which have technical coverage capability superior to Class A channels, must be used instead of Class A channels at Sault Ste. Marie, we believe, if the radio service needs of unserved and underserved areas in this region are to be met and if residents of this region are to have opportunity for at least two satisfactory aural broadcast services in the foreseeable future.

14. Support for this belief is found in the technical showing in the Patterson petition. It indicates that a Class C station at Sault Ste. Marie, operating with facilities of but 57 kW at 175 feet HAAT, much less than the maximum facilities allowed (100 kW at 2,000 feet HAAT), could provide service to some 2,601 persons in an area of 230 square miles which presently has no FM service (1 mV/m service) available (white area), and that it would also serve some 25,164 persons in an area of 423 square miles which presently has but one such FM service (grey area) available. Use of somewhat greater facilities by a Sault Ste. Marie Class C station could be expected to serve additional areas and population with no, or only one, FM service now available, and two Class C stations there would enable the unserved areas in the county and other areas to gain a choice of comparable FM service from different sources. Since the existing Sault Ste. Marie Class A station (WSMM) now operates with near maximum facilities (power of 3kW at 285 feet HAAT), there appears no real prospect that any significant part of the unserved areas and population in this area would ever be able to receive a need first or choice of FM

⁸ Principals of Miami are also principals of the licensee of Stations WCBY(AM) and WCBY-FM, which operates on Class C Channel 286, at Cheboygan (population 5,553).

service from it or another Class A station at Sault Ste. Marie and a strong possibility that they would remain unserved and that their needs for FM service would never be met.

15. The proposed Channel 258 and Channel 267 Class C assignments can be made without deleting any other assignments. They can also be made without adverse effect on the possible future needs of other communities, such as Newberry (it appearing that the available channels which could be assigned in this area are ample to meet any developing need and demand for local FM outlets).⁹ In addition, the response of the Class A licensee at Sault Ste. Marie indicates that switching over from Class A to Class C operation would be advantageous to him and financially possible, and the Miami comments indicate that it is likely that a second Class C assignment would be used, if assigned. We therefore, believe the public interest is served by assigning these two Class C channels to Sault Ste. Marie in place of Channel 224A. This will thus provide the base for a healthy, competitive environment for FM broadcasting in this area and insure opportunity for residents there to have a comparable choice of FM service.

16. In view of the foregoing, and pursuant to the authority contained in sections 4(i), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, *It is ordered*, That effective February 19, 1974, the FM Table of Assignments, § 73.202(b) of the Rules, IS AMENDED to read as follows for the city listed below:

| City | Channel No. |
|---------------------------------|-------------|
| Sault Ste. Marie, Michigan..... | 258, 267 |

Canadian concurrence has been obtained for these channel assignments to Sault Ste. Marie which is within 250 miles of the United States-Canadian border.

17. *It is further ordered*, That, effective February 19, 1974, and pursuant to Section 316(a) of the Communications Act cense held by Leon B. Van Dam, tr/as Lock City Broadcasting Co., for Station WSMM (FM) Saulte Ste. Marie, Michigan, IS MODIFIED to specify operation on Channel 258 in lieu of Channel 224A, subject to the following conditions:

(a) The licensee shall inform the Commission in writing by no later than February 19, 1974, of his acceptance of this modification.

(b) The licensee shall submit to the Commission by March 11, 1974, all necessary information complying with the applicable technical rules for modification

⁹ The comments of Mr. Sainio do not state that he or his employer, the licensee of Station WNBX, the Class IV AM station at Newberry, are interested in establishing an FM station at Newberry at this time. However, should either they or others in the community be seriously interested in obtaining an FM assignment for that purpose, any petition from them requesting an assignment will be given careful consideration.

of authorization to cover the operation of Station WSMM-FM on Channel 258 at Sault Ste. Marie, Michigan.

(c) The licensee may continue to operate on Channel 224A under his outstanding authorization until February 19, 1975, or may effect the change sooner should it so desire. Ten days prior to commencing operation on Channel 258, the licensee shall submit the same measurement data normally required in an application for an FM broadcast station license.

(d) The licensee shall not commence operation on Channel 258 until the Commission specifically authorizes him to do so.

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

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

Adopted: January 3, 1974.

Released: January 8, 1974.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-980 Filed 1-11-74; 8:45 am]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. RSSP-1, Notice 2]

PART 212—STATE PARTICIPATION

Correction

In FR Doc. 73-26703 appearing at page 34782 in the issue of Tuesday, December 18, 1973, making the following changes:

1. On page 34782, the second column, first complete paragraph, in the thirteenth line, between the words "facilities," and "States" insert the word "certified". In the twenty-first line, between the words "The" and "States" insert the word "certified".

2. A center heading and paragraph were inadvertently omitted from the third column on page 34783. Immediately following the third full paragraph insert the following:

SAFETY STANDARDS—SUBPART C

While preparing the final rule for this Part, an error in the minimum number of Track Inspectors prescribed for the State of Missouri was discovered. The proposed rule prescribed 2. The number of inspectors for each State was determined upon the basis that one inspector can inspect 2,200 miles of track per year, and that all track should be inspected at least once every 2 years. The minimum number was arrived at by dividing the number of miles of track within the State by 4,400. Using this formula, the final rule has been revised to provide for 3 Track Inspectors for Missouri.

3. In § 212.53(a), the minimum number of inspection requirement entry for Missouri reading "2" should read "3".

Title 50—Wildlife and Fisheries

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

PART 33—SPORT FISHING

Havasu National Wildlife Refuge

The following special regulation is issued and is effective on January 14, 1974.

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

ARIZONA AND CALIFORNIA

HAVASU NATIONAL WILDLIFE REFUGE

Sport fishing on the Havasu National Wildlife Refuge, Arizona and California, is permitted on waters designated as open to fishing. These waters, comprising 12,388 acres, are delineated on maps available at refuge headquarters, Needles, California, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, New Mexico 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 1 through December 31, 1974, inclusive, except that the closed area, as posted, in Topock Marsh is closed to fishing from January 1 through January 31, 1974, and from October 1, 1974 through January 31, 1975, inclusive.

(2) The possession of trotlines on the refuge is prohibited. A trotline is any hook and line arrangement that, when used, constitutes a violation of the "angling" laws of either Arizona or California.

(3) The taking of fish with bow and arrow is prohibited.

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

ROBERT A. KARGES,
Refuge Manager, Havasu National Wildlife Refuge, Needles, Calif.

DECEMBER 12, 1973.

[FR Doc.74-988 Filed 1-11-74; 8:45 am]

PART 33—SPORT FISHING

Imperial National Wildlife Refuge

The following special regulation is issued and is effective on January 14, 1974.

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

ARIZONA AND CALIFORNIA

IMPERIAL NATIONAL WILDLIFE REFUGE

Sport fishing and the taking of bullfrogs, crustaceans and mollusks on the Imperial National Wildlife Refuge, Arizona and California, is permitted in all

areas except in those areas closed to public entry. These open areas, comprising 8,100 acres, are delineated on maps available at refuge headquarters, Yuma, Arizona, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, New Mexico 87103. Sport fishing and the taking of bullfrogs, crustaceans and mollusks shall be in accordance with applicable State regulations subject to the following special conditions:

(1) The open seasons for the taking of bullfrogs, crustaceans and mollusks shall be in accordance with State regulations.

(2) The open season for sport fishing on the refuge extends from January 1 through December 31, 1974, inclusive, except for an area of approximately 165 acres in Martinez Lake, Arizona as posted, to be closed during the periods January 1 through March 1, 1974, inclusive, and October 1 through December 31, 1974, inclusive, and an area of approximately 40 acres in Ferguson Lake, California, as posted, to be closed during the same periods.

(3) The use of bow and arrow for the taking of carp, buffalo, mullet, sucker, and bullfrogs is permitted.

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

GERALD E. DUNCAN,
Acting Refuge Manager, Imperial National Wildlife Refuge, Yuma, Ariz.

DECEMBER 14, 1973.

[FR Doc.74-985 Filed 1-11-74;8:45 am]

PART 33—SPORT FISHING

Anahuac National Wildlife Refuge

The following special regulation is issued and is effective on January 14, 1974.

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

TEXAS

ANAHUAC NATIONAL WILDLIFE REFUGE

Sport fishing and crabbing on the Anahuac National Wildlife Refuge, Texas, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 2¾ miles of roadside drain and pond edge and 7 miles of East Bay and Oyster Bayou shoreline, are delineated on maps available at refuge headquarters, Anahuac, Texas, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, New Mexico 87103.

Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions.

(1) Boats and floating devices may not be used for fishing on inland waters.

(2) In inland waters, fishing is permitted only by ordinary pole and line, rod and reel or hand-held line. Trotlines, throw lines, set lines, bow and arrows, gigs and spears may not be used in inland waters.

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

RUSSEL W. CLAPPER,
Refuge Manager, Anahuac National Wildlife Refuge, Anahuac, Texas.

DECEMBER 13, 1973.

[FR Doc.74-986 Filed 1-11-74;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY OFFICE

PART 200—MANDATORY PETROLEUM PRODUCTS ALLOCATION REGULATIONS

Motor Gasoline

Mandatory Petroleum Products Allocation Regulations

On December 11, 1973 the Federal Energy Office issued a Notice of Proposed Rulemaking (38 FR 34414, December 13, 1973) setting forth a program for the allocation of crude oil, residual fuel oil and all refined petroleum products. On December 27, 1973 final regulations were published (39 FR 744, January 2, 1974) adopting with certain amendments all of the proposed regulations with the exception of proposed Subparts D(1), E and F (Propane, Motor Gasoline, and Middle Distillates), whose effective date was delayed until January 11, 1974, under the authority of § 4(f) (1) of the Emergency Petroleum Allocation Act of 1973.

The purpose of this amendment is to provide that Subpart E (Motor Gasoline), as set out in the Notice of Proposed Rulemaking published in 38 FR 34414 on December 13, 1973 shall become effective on January 11, 1974, but will not be implemented until January 15, 1974 when a new body of regulations will be issued, to become effective and implemented on that date.

In addition, the Federal Energy Office is continuing in effect Energy Policy Office Regulation 1 (38 FR 28661, October 16, 1973, as amended in 38 FR 32494, November 14, 1973 and 38 FR 32740, November 27, 1973) relating to middle distillates, Energy Policy Office Regulation Number 3 (38 FR 27397, October 3,

1973) relating to propane and butane, and Energy Policy Office Regulation 7 (38 FR 29330, October 2, 1973) relating to procedures.

(The Economic Stabilization Act of 1970, as amended by the Economic Stabilization Act Amendments of 1973, Public Law 92-28, Stat. 27. The Emergency Petroleum Allocation Act of 1972, Pub. L. 93-159, E.O. 11748, 38 FR 33575)

In consideration of the foregoing, Part 200 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth herein. The amendment is effective January 11, 1974, but will not be implemented.

Issued in Washington, D.C. on January 11, 1974.

JOHN C. SAWHILL,
*Deputy Administrator,
Federal Energy Office.*

1. Chapter II of Title 10 of the Code of Federal Regulations is amended by adding a new Subpart E to Part 200, reading as follows:

Subpart E—Motor Gasoline

- 200.38 Scope of coverage.
- 200.39 Definitions.
- 200.40 Allocation.
- 200.41 Distribution system.
- 200.42 Method of allocation.
- 200.43 Reporting requirements and responsibilities.

AUTHORITY: Economic Stabilization Act of 1970, as amended by the Economic Stabilization Act Amendments of 1973, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat., Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, E.O. 11748, 38 FR 33575.

Subpart E—Motor Gasoline

§ 200.38 Scope of coverage.

(a) This subpart applies to the mandatory allocation of all motor gasoline produced in or imported into the United States.

(b) Aviation gasoline is specifically excluded from the coverage of this subpart. Aviation gasoline is covered by Subpart G of this part.

§ 200.39 Definitions.

For the purposes of this subpart the following definitions apply:

(a) "Bulk purchaser" means any end-user who is a corporation, partnership, sole proprietorship, or business or trade association who purchases motor gasoline from a supplier for storage in a tank container substantially under the control of the bulk purchaser.

(b) "Retail sales outlet" means a purchaser who obtains motor gasoline from a supplier and sells it to the public at retail; any retailer who also sells to bulk purchasers is covered under this subpart.

(c) The "base period" for motor gasoline is calendar year 1972.

(d) "Business" means commercial, industrial, non-profit, and governmental uses not covered by other definitions.

(e) "Supplier" means any provider of motor gasoline except a "retail sales outlet".

(f) "State Reserve" means that portion of each wholesale purchaser's monthly nonpriority supply of gasoline which may be redirected by the Federal Energy Office (or State office, if one has been created by the State) to alleviate hardship or adverse economic impact.

§ 200.40 Allocation.

The allocation level for each wholesale purchaser is as appears below:

(a) 100 percent of current requirements for the following uses:

- (1) Emergency services
- (2) Agricultural production
- (3) Transportation services
- (4) Energy production

(b) 100 percent of base period use for other businesses.

(c) The residuum of each wholesale purchaser's non-priority allocable supply becomes the allocable supply for all other uses. Until the uses specified in paragraphs (a) and (b) of this section have been supplied to 100 percent of current requirements, no more than 90 percent of base period use shall be allocated to other uses.

§ 200.41 Distribution system.

(a) Each supplier (including firms which have undergone a change in ownership) is required to provide supplies of motor gasoline to those purchasers (including firms which have undergone a change in ownership) he has supplied since January 1, 1973.

(b) Each wholesale purchaser who was not in business during the entire year of the base period, or who has had substantial expansion in fuel requirements since the base period, may apply to the Federal Energy Office and be assigned an adjusted non-priority base period supply volume and an adjusted priority base period supply volume.

(c) Variance from base period experience in fuel delivery locations (e.g., construction company requirements) should be accommodated where agreement can be reached between the relevant supplier and wholesale purchaser. To the extent

necessitated solely by this subpart, suppliers may exchange allocable supplies in kind, to avoid impractical distribution problems. However, no supplier may reduce allocations, otherwise available to his other purchasers, as a result of such exchanges.

(d) Each supplier will adjust his total allocable supply to reflect the differences between the previous month's estimated supplies and actual supplies.

(e) The State Reserve for motor gasoline will be in the amount of 3 percent.

§ 200.42 Method of allocation.

(a) *Priority allocations.* (1) Each wholesale purchaser must inform his supplier on a monthly basis of his allocation level for motor gasoline for priority end-uses. A supplier may require submission of data from his purchasers on volumes required for priority uses. Such reports must be certified by the purchaser for accuracy of volumes and that such quantities will not be sold for nonpriority uses. Wholesale purchasers will adjust their future requests for priority allocations to reflect their previous month's underage or overage and actual usage for priority purposes. Where the wholesale purchaser's supply requirements were supplied by more than one supplier since January 1, 1973, current requests for priority allocations should be made based on the percentage of priority requirements for that product that each supplier furnished during that time.

(2) To the extent required by these regulations, wholesale purchasers priority allocation levels will be met before a supplier allocates for nonpriority uses. If sufficient volumes are not available to satisfy all of his wholesale purchasers' priority requirements (i.e., the total allocable supply is less than the sum of all priority requirements of a supplier's purchasers), the supplier will first meet all the priority needs for uses described in § 200.40(a). The remaining allocable supply will be distributed among the remaining priority users [those described in § 200.40(b)] proportional to their priority base period supply volume. If a supplier is unable to fully meet all priority uses for motor gasoline, he can request his State office or the Federal Energy Office for assignment of addi-

tional supplies to meet his shortfall for priority needs.

(b) *Non-priority allocations.* (1) Each supplier will subtract from his total allocable supply the sum of his priority allocations. This difference, the non-priority allocable supply, will be distributed equitably among his purchasers for non-priority uses (see § 200.40(c)).

(2) Each supplier will allocate motor gasoline for non-priority use among his wholesale purchasers by multiplying each purchaser's non-priority monthly base period volume (or his adjusted non-priority base period volume) by the supplier's monthly allocation fraction. The supplier's monthly allocation fraction shall be equal to his adjusted non-priority allocable supply for that month divided by the sum of the monthly non-priority base period volumes (or adjusted non-priority base period volumes, where applicable) of all his wholesale purchasers.

§ 200.43 Reporting requirements and responsibilities.

(a) *Reporting requirements.* (1) The general reporting requirements contained in this regulation shall apply to this subpart.

(b) *Responsibilities.* (1) The Administrator, FEO, shall publish quarterly the figures indicating the national allocable supply of motor gasoline.

(2) The Administrator, FEO, or his designate shall assign a supplier to those suppliers, bulk users, and retail sales outlets who are unable to obtain the amount of motor gasoline to which they are entitled under the provisions of this program.

(3) The Administrator, FEO, or his designate may redirect present or anticipated local or regional surpluses so as to alleviate shortages elsewhere.

(4) The Administrator, FEO, or his designate must ratify the decision by any supplier to terminate permanently his relationship with any purchaser, including bulk users and retail sales outlets. This in no way obviates other normal business practices.

[FR Doc.74-1326 Filed 1-11-74; 3:58 pm]

Title 32A—National Defense, Appendix

CHAPTER XIII—FEDERAL ENERGY OFFICE

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

**EPO REG. 3—MANDATORY ALLOCATION
PROGRAM FOR PROPANE**

EPO REG. 7—PROCEDURAL RULES

CROSS REFERENCE: For a document regarding the retention of EPO Regs. 1, 3, and 7 as part of the Federal Energy Office regulations pending publication of new FEO regulations see FR Doc. 74-1326, page 1773 of this issue.

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 Indian Affairs

[25 CFR Part 33]

ENROLLMENT OF INDIANS IN PUBLIC SCHOOLS

Proposed Revision of Part

JANUARY 2, 1974.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 FR 13938).

Notice is hereby given that it is proposed to revise Part 33, Subchapter E, Chapter I, of Title 25 of the Code of Federal Regulations. This revision is proposed pursuant to the authority contained in section 3 of the Act of April 16, 1934 (48 Stat. 596), as amended by the Act of June 4, 1936 (49 Stat. 1458 (25 U.S.C. 452-456)).

The purpose of this revision is to clarify the eligibility requirements for educational programs for Indian students in public schools to be funded under these regulations.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed revision to the Commissioner of Indian Affairs, Attention: Director of Indian Education Programs, Washington, D.C. 20245, by February 13, 1974.

It is proposed to revise Part 33, of Chapter I, Title 25, of the Code of Federal Regulations to read as follows:

PART 33—ENROLLMENT OF INDIANS IN PUBLIC SCHOOLS

- Sec.
33.1 Definitions.
33.2 Contracts.
33.3 State school laws.
33.4 General requirements for contracts.
33.5 Public school use of Federal property.

AUTHORITY: Sec. 3, 48 Stat. 596, as amended; 25 U.S.C. 454, unless otherwise noted.

§ 33.1 Definitions.

Whenever used in this part, the terms defined in this section shall have the meaning herein stated:

(a) "State" means a State of the United States of America or any subdivision thereof.

(b) A "school district" is the local unit of school administration as defined by the laws of the State in which it is located.

(c) An "Indian" is an individual who is a member of a tribe, band, or other organized group of Indians, including Alaska Natives, which is recognized by

the Secretary of the Interior as being eligible for Federal Services.

(d) An "Indian Advisory School Board" is a board elected by Indian parents within a school district to meet with the elected district school board to assist in planning for expenditure of funds received by the school district for education of eligible Indian students.

§ 33.2 Contracts.

(a) Contracts may be entered into under the provisions of the Act of April 16, 1934 (48 Stat. 596) as amended by the Act of June 4, 1936 (49 Stat. 1458, 25 U.S.C. 452-456) with authorities of a State, or school district, or Corporation for the education of Indian children, of ¼ or more degree Indian blood, unless excepted by law, in grades Kindergarten through 12. Monies appropriated by Congress for such purposes can be expended only in eligible public school districts containing large tracts of nontaxable Indian-owned land and educating large numbers of eligible Indian children, as compared to the total school population.

(b) The contracts may authorize payments for Educational Programs in two categories: (1) In support of the basic school program offered to all students, to meet educational standards established within the State, only if authorized by the Education Plan, and only if a school district's financial need is proven, after consideration of all income, including income from P.L. 874, 81st Congress (64 Stat. 1100) as amended. (2) In payment for the costs of providing supplemental programs to meet the special needs of Indian students, as determined by the Indian Advisory School Board, which may result from the financial status of the parents, or from cultural and language differences, and where such programs are necessary so that Indian students can benefit from the basic educational programs equally with non-Indian students.

(c) Program operations conducted through contracts under this part must be conducted for the primary benefit of eligible Indian students enrolled in eligible public school districts.

§ 33.3 State school laws.

All Indians, as citizens of the State wherein they reside, shall be amenable to the school laws of such State. Employees of any State may be permitted to enter upon Indian tribal lands, reservations, or allotments therein

(a) To inspect educational conditions or,

(b) To enforce the penalties of State compulsory school attendance laws against Indian children, and parents, or

other persons in loco parentis, except that the provisions of this section shall not apply to Indians of any tribe in which a duly constituted governing body exists until such body has adopted a resolution consenting to such application.

§ 33.4 General requirements for contracts.

(a) *Educational plan.* To become eligible to administer the contract funds, the contractor shall formulate an operational plan for distribution of contract funds, such plan to become a part of the contract.

(b) *Budget estimates and reports.* Each contractor shall submit such budget information as is necessary in order to determine eligibility to receive funds. This information shall include estimates of receipts of funds from all sources, and if supplemental funds are requested for special need programs, shall specify program items for which funds from this program shall be expended.

(c) *Equal educational opportunities.* Contracts shall specify that all school districts receiving funds under the provisions of this part shall provide educational opportunities to all Indian children within that school district on the same terms and under the same conditions that apply to all other students. School districts receiving funds under this part shall receive all aid from other sources to which other similar schools are entitled to receive. In no instance shall there be discrimination against Indians or schools enrolling such Indians.

(d) *Educational standards.* The school district serving Indian students shall provide educational programs required by established State standards.

(e) *Inspection of programs.* Schools in districts receiving funds under this part shall be open to visits for purposes of program audit and inspection by duly accredited representatives of the Federal government and the contracting agency.

§ 33.5 Public school use of Federal property.

The use of federally-owned facilities for public school purposes may be authorized when not needed for Federal activities. Transfers of title to such facilities may be arranged under the provisions of the Act of June 4, 1953 (67 Stat. 41).

(a) *Insurance covering nonexpendable property.* When non-expendable Government property is turned over to public school authorities under a permit, the permittee shall insure such property against damage by fire, windstorm, and tornado in amounts and with companies satisfactory to the superintendent or of-

ficer in charge of the Indian agency responsible for the property. In case of damage or destruction of such property by fire, windstorm, or tornado the insurance money collected shall be expended only for repair or replacement of property; otherwise insurance proceeds shall be remitted to the Bureau.

(b) *Maintenance of building.* The permittee shall maintain the property in a reasonable state of repair.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.74-940 Filed 1-11-74;8:45 am]

National Park Service

[36 CFR Part 7]

YELLOWSTONE NATIONAL PARK

Definition of "Minor" With Respect to Alcoholic Beverages

Notice is hereby given that pursuant to the authority contained in Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended, 16 U.S.C. 3), and the Act of May 7, 1894 (28 Stat. 73, as amended, 16 U.S.C. 26), 245 DM-I (34 FR 13879), as amended, National Park Service Order No. 77 (38 FR 7478), as amended, Regional Director, Midwest Region Order No. 5 (37 FR 6324), it is proposed to amend § 7.13 of Title 36 of the Code of Federal Regulations as set forth below.

The purpose of this amendment is to change the definition of a minor as it relates to alcoholic liquors so that it generally conforms to the definitions of minors in the surrounding states for similar purposes.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections, with respect to the proposed amendments to the Superintendent, Yellowstone National Park, Wyoming 82190, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

Section 7.13 (i) (1) (i) of Title 36 of the Code of Federal Regulations is amended as follows:

§ 7.13 Yellowstone National Park.

(i) *Alcoholic liquors.* (1) Definitions for the purposes of this section:

(i) The term "minor" means any person under 18 years of age regardless of marital status.

JACK K. ANDERSON,
Superintendent,
Yellowstone National Park.

[FR Doc.74-937 Filed 1-11-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[7 CFR Part 330]
[9 CFR Part 94]

GARBAGE

Notice of Hearing and Proposed Rulemaking

Pursuant to sections 5, 8, and 9 of the Plant Quarantine Act of 1912, as amended, (7 U.S.C. 159, 161, 162), section 106 of the Federal Plant Pest Act (7 U.S.C. 150ee), section 306 of the Act of June 17, 1930, as amended, (19 U.S.C. 1306), section 2 of the Act of February 2, 1903, as amended, (21 U.S.C. 111), sections 101 and 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4331, 4332), and the administrative procedure provisions in 5 U.S.C. 553, notice is hereby given of a public hearing and a proposed rulemaking proceeding to consider amending certain portions of 7 CFR Part 330 and 9 CFR Part 94 relating to garbage.

Every foreign country, Hawaii, and every Territory or possession of the United States is infested or infected by some plant pests or livestock or poultry diseases that may be spread in garbage originating on means of conveyance coming from such areas. Present restrictions under the acts do not appear to be adequate to prevent the dissemination of such plant pests and livestock or poultry diseases into or within the United States. Therefore, it appears that more stringent requirements for handling garbage on board such means of conveyance, as well as garbage that is unloaded, are necessary.

Consequently, the Administrator, Animal and Plant Health Inspection Service, proposes to amend the provisions contained in 7 CFR 330.400 and 9 CFR 94.5 concerning the handling of such garbage to set forth more specific safeguards relating to garbage which is kept aboard such means of conveyance as well as garbage which is unloaded from such means of conveyance for disposal in the United States. It is also proposed to further amend the regulations in 7 CFR Part 330 and 9 CFR Part 94 to define "garbage" to include types of waste and refuse originating on means of conveyance arriving in the United States, or moving between specified ports of the United States, that present a risk of disseminating plant pests and livestock or poultry diseases.

The provisions in 7 CFR 330.400 and 9 CFR 94.5 relating to the storage and movement of garbage would be amended to read as follows:

Garbage: storage and movement. (a) Garbage on or unloaded from any means

of conveyance arriving in the United States from any place outside thereof, or arriving in Alaska or the conterminous United States from Hawaii or any Territory or possession, or arriving in Hawaii from any Territory or possession, or arriving in any Territory or possession from any other Territory or possession or from Hawaii, shall be subject to general surveillance by the inspectors and the use of such emergency measures by the inspectors as are authorized by section 105 of the Federal Plant Pest Act (7 U.S.C. 150ff), section 10 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 164a), section 2 of the Act of February 2, 1903, as amended, (21 U.S.C. 111), section 5 of the Act of July 2, 1962 (21 U.S.C. 134d), and section 306 of the Act of June 17, 1930, as amended, (19 U.S.C. 1306), to prevent the dissemination of plant pests and livestock or poultry diseases.

(b) All garbage shall be contained in tight, leak-proof covered receptacles (inside the guard rail on vessels) during storage on board such means of conveyance while in the territorial waters, or otherwise within the Territory, of the United States. Garbage shall not be unloaded from such means of conveyance in the United States unless such garbage is removed in tight, leak-proof receptacles under the direction of an Animal and Plant Health Inspection Service inspector to a facility approved by the Administrator, Animal and Plant Health Inspection Service, for incineration, sterilization, or grinding into an approved sewage system, under such supervision, or such garbage is removed for other handling in such manner and under such supervision as may, upon request in specific cases, be approved by the Administrator as adequate to prevent the dissemination into the United States of plant pests and livestock or poultry diseases. Application for such approvals shall be made in writing by the port authority or other agency having responsibility for operation of the port or airport, to the Administrator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. Approval will be granted if the criteria set forth in subparagraph (d) (3) or (4) are met.

(c) The Plant Protection and Quarantine Programs and Veterinary Services, Animal and Plant Health Inspection Service, will cooperate with other Federal, State, and local agencies in enforcing other statutes and regulations governing disposal of garbage to the end that such disposal shall be adequate to prevent the dissemination of plant pests and livestock or poultry diseases and comply with applicable laws for environmental protection. The inspectors, in maintaining surveillance over garbage

movements and disposal, shall coordinate their activities with the activities of representatives of the Environmental Protection Agency and other Federal, State, and local agencies also having jurisdiction over such garbage.

(d) As used in this section:

(1) "Sterilization" means cooking garbage at 212° F. for 30 minutes;

(2) "Incineration" means to reduce the garbage to ash by burning;

(3) "Approved facility" means a facility approved by the Administrator, Animal and Plant Health Inspection Service, upon his determination that it has equipment and uses procedures that are adequate to prevent the dissemination of plant pests or livestock or poultry diseases and that it has been certified by an appropriate government official as currently complying with the applicable laws for environmental protection; and

(4) "Approved sewage system" means a sewage system approved by the Administrator, Animal and Plant Health Inspection Service, upon his determination that the system is adequate to prevent the dissemination of plant pests or livestock or poultry diseases and that it has been certified by an appropriate government official as currently complying with the applicable laws for environmental protection.

(e) Importation into the United States of any garbage derived in whole or in part from meat originating in or shipped from any country designated in 9 CFR 94.1 as infected with rinderpest or foot-and-mouth disease is prohibited by law (19 U.S.C. 1306; 9 CFR 94.1).

The definition of "garbage" in 7 CFR 330.100(u) would be amended, and a new definition of "garbage" would be added as 9 CFR 94.5(f) to read as follows:

Garbage. "Garbage" means all waste material derived in whole or in part from fruits, vegetables, meats, or other plant or animal material and other refuse of any character whatsoever that has been associated with any such material on board any means of conveyance, and including food scraps, table refuse, galley refuse, food wrappers, or packaging materials, and other waste material from stores, food preparation areas, passengers' or crews' quarters, dining rooms, or any other areas on vessels, aircraft, or other means of conveyance.

The public hearing to consider the above proposals will be held before a representative of the Animal and Plant Health Inspection Service on February 5, 1974, at 10 a.m. in Room 2096, South Building, U.S. Department of Agriculture, 14th and Independence Avenue, Washington, D.C. At the hearing, a representative of the Animal and Plant Health Inspection Service will present a statement explaining the purpose and basis of this proposal. Any interested person may appear and be heard either in person or by attorney. Also, any interested person or his attorney will be afforded an opportunity to ask relevant questions concerning the proposal.

Any interested person who desires to submit written data, views, or arguments

on the proposal may do so by filing the same with the Deputy Administrator, Plant Protection and Quarantine Programs, or the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, Maryland 20782, on or before February 4, 1974, or with the presiding officer at the hearing. All written submissions made pursuant to this notice will be made available for public inspection at times and places and in a manner convenient to the public business, unless the person making the submission requests that it be held confidential, and the Administrator determines that a proper showing in support of the request has been made on grounds that disclosure of the material submitted could adversely affect any person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If such a determination is made, the material will be held confidential; otherwise, notice will be given of denial of such a request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential as provided in 7 CFR 1.27(c).

After consideration of all information presented at the hearing or otherwise available to the Department, a determination will be made as to whether the regulations will be amended as proposed.

Done at Washington, D.C., this 9th day of January 1974.

F. J. MULHERN,
*Administrator, Animal and Plant
Health Inspection Service.*

[FR Doc.74-1002 Filed 1-11-74; 8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric
Administration

[50 CFR Part 251]

YELLOWFIN TUNA FISHERIES

Proposed Financial Aid Program
Procedures

JANUARY 10, 1974.

Notice is hereby given that the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, has under consideration an amendment to the regulations (50 CFR Part 251) which sets forth financial aid program procedures.

It is the intent of Part 251 of this chapter that financial assistance programs will not be made available when upon review of situations and conditions at hand, as well as prospective developments, the Director deems that the use of such financial assistance programs would not be consistent with the wise use and with the development, advancement, management, conservation, and protection of fisheries resources.

The proposed amendment, as set forth below, would incorporate in subpart B of the regulation a new § 251.20 to class-

ify the "fishery for yellowfin tuna in the area regulated by the Inter-American Tropical Tuna Commission" as a Conditional Fishery as the term is defined in § 251.1(i).

The principal situations and conditions under consideration for determining that the "fishery for yellowfin tuna in the area regulated by the Inter-American Tropical Tuna Commission" is in need of regulation under Part 251 of this chapter are described in the following Explanatory Statement.

Federal and State agencies as well as the public will be given time and opportunity to comment on this proposed amendment. Comments that are received will be evaluated giving full consideration to the national interest and the multiplicity of environmental, biological, economic, social, and other situations and conditions as the Director may deem relevant. Upon evaluation of all comments and available information the Director will take action as may be appropriate and will continue to monitor and assess situations and conditions related to the "fishery for yellowfin tuna in the area regulated by the Inter-American Tropical Tuna Commission" to determine the continued need for regulation. This proposed amendment is published pursuant to the authority contained in section 4 of the Fish and Wildlife Act, 1956, as amended, Title XI of the Merchant Marine Act, 1936, as amended, Section 607 of the Merchant Marine Act, 1936, as amended, the National Environmental Policy Act, and Reorganization Plan No. 4 of 1970.

Written views, data, or arguments on this proposed amendment should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235. All communications received on or before April 15, 1974 will be considered before action is taken with respect to adoption of the proposed amendment. No public hearing is contemplated at this time; however, any persons desiring a public hearing may request such a hearing by writing to the Director, National Marine Fisheries Service, Washington, D.C. 20235. In the event that a public hearing is found necessary, an appropriate notice to that effect will be published in the FEDERAL REGISTER.

By order of the Administrator, National Oceanic and Atmospheric Administration.

ROBERT M. WHITE,
Administrator.

Explanatory Statement. The Director considers it necessary to classify the "fishery for yellowfin tuna in the area regulated by the Inter-American Tropical Tuna Commission" as a Conditional "fishery for yellowfin tuna in the area" this chapter. The necessary situations and conditions for such classification follow.

The Inter-American Tropical Tuna Commission (IATTC) was established in 1949 and initiated research on, among other things, yellowfin tuna in the eastern Pacific Ocean. Since 1966, in accord

with the IATTC program to conserve and manage the yellowfin tuna for the purpose of harvesting an annual average maximum sustainable yield, it has been necessary to establish an annual catch quota and establish open and closed seasons. However, during the closed season, under conditions as set forth in regulations (50 CFR Part 280) certain vessels may continue to fish without restriction on a last trip commenced within 30 days following the closure date, and additional catches and landings of yellowfin tuna are permitted.

Since 1969 the carrying capacity of the U.S.-flag fleet operating for yellowfin tuna in the regulatory area has more than doubled; it is now over 90,000 short tons carrying capacity. This capacity, plus the carrying capacity of foreign vessels, has increased the carrying capacity of the international fleet to about 130,000 short tons as compared to about 110,000 short tons in 1972 and 95,000 short tons in 1971. Estimates regarding new vessels now under construction indicate that by 1974 the carrying capacity of the U.S.-flag fleet will be about 110,000 short tons and the carrying capacity of the international fleet will increase to about 160,000 short tons.

The open season during which vessels can fish unrestricted for yellowfin tuna has decreased substantially; the opening date for each year has been January 1; closure dates have been September 15, 1966; June 24, 1967; June 18, 1968; April 16, 1969; March 23, 1970; April 9, 1971; March 5, 1972, and March 8, 1973. The need to shorten the open season has been related to the significant growth in fleet capacity and to the increased efficiency of the vessels that have been added to the fleet during recent years.

Under current Management, it has become increasingly difficult for the IATTC to fix the closing date for unrestricted fishing so that the actual catch during a year does not exceed the quota established for that year. In 1973, the fishery was operated under a quota of 130,000 short tons, with provisions made for increasing the quota to 160,000 tons, in three successive increments of 10,000 tons each, if current data on the fishery indicated that it could support such increases. However, due to the significant increase in fleet capacity, and limited current data available for reexamination of the catch statistics, it did not prove possible to determine whether or not any of the 10,000 ton increments should be added to the 130,000 ton quota. In fact, when the Director of Investigations, IATTC, announced on February 27, 1973, that the unrestricted yellowfin tuna season within the IATTC regulatory area would close on March 8, 1973, he stated that he could estimate only that the final catch would fall somewhere between 135,000 and 165,000 tons.

Developments over the past few years indicate that the fishing pressure for yellowfin tuna in the IATTC regulatory area has reached such a level that it is now posing a threat to the ability of the

IATTC to achieve its conservation objectives. Shorter open seasons and increased uncertainty about holding catches to scientifically established quotas manifest the extent of the problem. Under current Management, continued additions to fleet capacity will aggravate the problem and place the continued profitable production of yellowfin tuna from the IATTC regulatory area in jeopardy.

Consequently, the Director is considering that the "fishery for yellowfin tuna in the area regulated by the Inter-American Tropical Tuna Commission" should be a Conditional Fishery in accordance with Part 251 of this chapter as it now appears that the use of financial assistance programs to add vessel capacity to this fishery would not be consistent with the needs and objectives of Management.

It is proposed to amend Part 251 of this chapter, Subpart B—Conditional Fisheries to add a new § 251.20 as follows:

§ 251.20 Conditional fisheries.

Fishery for yellowfin tuna in the area regulated by the outer-American Tropical Tuna Commission.

[FR Doc. 74-1236 Filed 1-11-74; 8:45 am]

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Social Security Administration

[20 CFR Part 416]

[Regs. No. 16]

**SUPPLEMENTAL SECURITY INCOME FOR
THE AGED, BLIND, AND DISABLED**

Eligibility

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendment to the regulations set forth in tentative form is proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendment adds new § 416.121 (Receipt of Aid or Assistance for December 1973 under an Approved State Plan under Title I, X, XIV, or XVI of the Social Security Act) to Subpart A (Introduction, General Provisions and Definitions) of Part 416 (20 CFR).

Proposed § 416.121 defines the term "recipient of aid or assistance for December 1973 under an approved State plan under title I, X, XIV, or XVI of the Social Security Act" as that term is used in application of the provisions of §§ 416.242 (essential persons), 416.901 (definitions of blindness and disability), 416.1175 (income exclusions for certain blind individuals), 416.1260 (special resource provisions for recipients under a State plan) and 416.2070 (mandatory minimum State supplementation) of Part 416 (20 CFR).

The rules set forth in the proposed regulations will be applied by the Social Security Administration in order to administer the supplemental security income program during the period from January 1, 1974, when the new program

becomes effective, until final regulations are adopted.

Prior to the final adoption of the proposed amendment to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before February 13, 1974.

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

The proposed amendment is to be issued under the authority contained in sections 205(a), 1102, 1611(g), 1611(h), 1614(a) and 1631(d)(1) of the Social Security Act and sections 211 and 212 of Public Law 93-66, 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 86 Stat. 1468, 1468, 1471, and 1476, 87 Stat. 154, 155; 42 U.S.C. 405(a), 1302, 1382(g), 1382(h), 1383c(a)(1), 1383(d)(1), 1382 nt.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Dated: December 28, 1973.

ARTHUR E. HESS,
Acting Commissioner of
Social Security.

Approved: January 9, 1974.

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

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended by adding § 416.121 to Subpart A to read as follows:

§ 416.121 Receipt of aid or assistance for December 1973 under an approved State plan under title I, X, XIV, or XVI of the Social Security Act.

(a) *Recipient of aid or assistance defined.* As used in this Part 416, the term "individual who was a recipient of aid or assistance for December 1973" under a State plan approved under title I, X, XIV, or XVI of the Social Security Act means an individual who correctly received aid or assistance under such plan for December 1973 even though such aid or assistance may have been received subsequent to December 1973. It also includes an individual who filed an application prior to January 1974 and was otherwise eligible for aid or assistance for December 1973 under the provisions of such State plan but did not in fact receive such aid or assistance. It does not include an individual who received aid or assistance because of the provisions of 45 CFR 205.10(a)(6)(i) (pertaining to continuation of assistance until a fair hearing decision is rendered), as in effect in December 1973, and with respect to whom

it is subsequently determined that such aid or assistance would not have been received without application of the provisions of such 45 CFR 205.10(a)(6)(i).

(b) *Aid or assistance defined.* As used in this Part 416, the term "aid or assistance" means aid or assistance as defined in titles I, X, XIV, and XVI of the Social Security Act, as in effect in December 1973, and such aid or assistance is eligible for Federal financial participation in accordance with those titles and the provisions of 45 CFR Chapter II as in effect in December 1973.

(c) *Determinations of receipt of aid or assistance for December 1973.* For the purpose of application of the provisions of this Part 416, the determination as to whether an individual was a recipient of aid or assistance for December 1973 under a State plan approved under title I, X, XIV, or XVI of the Social Security Act will be made by the Administration. In making such determination, the Administration may take into consideration a prior determination by the appropriate State agency as to whether the individual was eligible for aid or assistance for December 1973 under such State plan. Such prior determination, however, shall not be considered as conclusive in determining whether an individual was a recipient of aid or assistance for December 1973 under a State plan approved under title I, X, XIV, or XVI of the Social Security Act for purposes of application of the provisions of this Part 416.

[FR Doc.74-995 Filed 1-11-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

DELAWARE BAY AND RIVER

Anchorage Ground and Regulated
Navigation Area

Correction

In FR Doc. 73-27152, appearing at page 35486, in the issue for Friday, December 28, 1973, in the 21st line of § 110.157, the words "paragraph (b) and (b) (2) of this section", should read "paragraph (b) (1) and (2) of this section".

Federal Aviation Administration

[14 CFR Part 63]

[Docket No. 13476; Notice No. 74-1]

FLIGHT ENGINEER KNOWLEDGE AND AERONAUTICAL EXPERIENCE REQUIREMENTS

Notice of Proposed Rulemaking

The Federal Aviation Administration is considering amending Part 63 of the Federal Aviation Regulations to permit an applicant for a flight engineer certificate and a class rating to meet the prescribed aeronautical experience re-

quirements in an additional manner to those now specified in § 63.37 of the Federal Aviation Regulations.

Interested persons are invited to participate in the subject rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before March 15, 1974, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

The FAA since the adoption of Amendment 63-3 which revised Part 63 of the Federal Aviation Regulations has issued numerous exemptions from § 63.37, which prescribes the aeronautical experience requirements for flight engineers. The exemptions were granted on the basis that the petitioners were all holders of at least a commercial pilot certificate with an instrument rating. The petitioners were permitted to take the written test without complying with § 63.37 but were still required to comply with all applicable provisions of § 63.37 before taking the practical test or being issued a flight engineer certificate with class rating. FAA review of test results indicates that the overwhelming majority passed the flight engineer written examination.

The FAA believes that a person who holds a commercial pilot certificate with an instrument rating possesses sufficient aeronautical experience and has adequate understanding of the Federal Aviation Regulations to be permitted to take the written tests for a flight engineer based on that experience without adversely affecting safety in air commerce.

Therefore, the agency proposes to amend § 63.37 to permit applicants for a flight engineer certificate who are the holders of a commercial pilot certificate with instrument rating and who have at least 5 hours of flight training in the duties of a flight engineer to satisfy the experience requirements of § 63.37.

It is also proposed to amend § 63.35 to clarify the requirement that an applicant for a flight engineer certificate with a class rating must take both the basic test and a class rating test prior to completing the practical test required by § 63.39 for the original issuance of a flight engineer certificate with a class rating.

These amendments are proposed under authority of sections 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1422); and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend Part 63 of the Federal Aviation Regulations as follows:

1. By amending paragraphs (c) and (d) of § 63.35 to read as follows:

§ 63.35 Knowledge requirements.

(c) Before taking the written tests prescribed in paragraphs (a) and (b) of this section, an applicant for a flight engineer certificate must present satisfactory evidence of having completed one of the experience requirements of § 63.37. However, he may take the written tests before acquiring the flight training required by § 63.37.

(d) An applicant for a flight engineer certificate must have passed the written tests required by paragraphs (a) and (b) of this section within the 24-month period before the date he takes the flight tests. However, this limitation does not apply to an applicant who, after passing these written tests, has continuously participated in a maintenance, flight engineer, or pilot training program of a United States air carrier or commercial operator conducted under Part 121 of this chapter, or conducted by a United States scheduled military air transportation service.

2. By redesignating paragraphs (4), (5), and (6) of § 63.37(b) as paragraphs (5), (6), and 7, and by inserting a new paragraph designated as paragraph (4) to read as follows:

§ 63.37 Aeronautical experience requirements.

(4) At least a commercial pilot certificate with an instrument rating and at least 5 hours of flight training in the duties of a flight engineer.

Issued in Washington, D.C., on January 2, 1974.

C. R. MELUGIN, JR.,
Acting Director,
Flight Standards Service.

[FR Doc.74-935 Filed 1-11-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-WA-13]

NEW ORLEANS, LA.

Proposed Terminal Control Area

The Federal Aviation Administration (FAA) is considering the adoption of a Group II Terminal Control Area (TCA) for New Orleans, La. Rules for the control and segregation of all aircraft operated within terminal control areas are contained in Part 91, §§ 91.24, 91.70 and 91.90 of the Federal Aviation Regulations. Further information concerning flight within TCAs is contained in the Airman's Information Manual.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Additionally, comments are invited on the potential im-

facts of this proposed on the quality of the human environment. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before March 15, 1974, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

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

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

Notice 69-41 and the amendments thereto delineated those major hub cities for which TCAs were planned. This Notice is intended to produce the input necessary to design an appropriate airspace configuration that can provide the safest environment with the least impact on the airspace users. TCAs have now been designated at all Group I locations, and this Notice proposes a configuration for a Group II TCA at New Orleans, La.

A proposed configuration was discussed at a FAA/Industry meeting held in New Orleans on April 18, 1973, to consider user operational requirements. The proposal contained herein reflects a revision to the TCA configuration presented at the meeting.

The ATA representative expressed concern that with the climb rate criteria used, sufficient airspace would not exist for departures without lengthy vectors. He recommended the TCA floor in the Lakefront Control Zone be lowered to 3,000 feet to adequately contain these departures and to allow earlier descent, when it is necessary to vector arrivals over Lakefront Airport, for turn-on to the runway 28 final approach course. The ALPA representative endorsed the ATA recommendation. The TCA floor proposed within the Lakefront Airport Control Zone has been changed accordingly and is reflected in this notice.

After the meeting, FAA and Sellers Field (formerly Chenevert Airport) rep-

resentatives met to explore possible solutions for relief of Sellers Field based aircraft from having to operate within the TCA. Sellers Field is located approximately two and one-half miles southwest of Moisant Field. An area excluded from the TCA was agreed upon and underlies Area B as described herein.

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

NEW ORLEANS, LOUISIANA, TERMINAL
CONTROL AREA
PRIMARY AIRPORT

New Orleans International Airport—Moisant Field (Lat. 29°59'30" N., Long. 90°15'37" W.).

Boundaries:

Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within a 7-mile radius of the New Orleans International Airport—Moisant Field, and within a 1.5-mile radius of the ILS Runway 10 outer compass locator (Lat. 30°01'30" N., Long. 90°23'59" W.), excluding that airspace within and underlying Area B described hereinafter.

Area B. That airspace extending upward from 1,000 feet MSL to and including 7,000 feet MSL within an area bounded on the north by the south shore of the Mississippi River, on the east by a line one-half mile east of and parallel to the Sellers Field runway 16/34 extended centerline, on the south by the Southern Pacific railroad track, and on the west by a 7-mile radius of the New Orleans International Airport—Moisant Field.

Area C. That airspace extending upward from 2,000 feet MSL to and including 7,000 feet MSL within a 15-mile radius of the New Orleans International Airport—Moisant Field, excluding Areas A and B previously described and that airspace within and underlying Areas D and E described hereinafter.

Area D. That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within that portion of the New Orleans Lakefront Airport Control Zone which lies within a 15-mile radius of the New Orleans International Airport—Moisant Field.

Area E. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL within a 20-mile radius of the New Orleans International Airport—Moisant Field, and within a 5-statute-mile radius of NAS New Orleans—Alvin Callender Field (Lat. 29°49'40" W., Long. 90°01'25" W.), excluding Areas A, B, C, and D previously described.

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

Issued in Washington, D.C., on January 3, 1974.

GORDON E. KEWER,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc.74-933 Filed 1-11-74;8:45 am]

[14 CFR Part 93]

[Docket No. 13477; Notice No. 74-2]

SPECIAL VFR PROHIBITION AT DALLAS-FORT WORTH REGIONAL AIRPORT AND ELIMINATION OF PROHIBITION AT LOVE FIELD

Notice of Proposed Rulemaking

The Federal Aviation Administration proposes to amend Part 93 of the Federal Aviation Regulations to permit Special VFR operations in the Love Field (Dallas, Texas) control zone and to prohibit Special VFR operations in the Dallas-Fort Worth Regional Airport control zone.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Ave., SW., Washington, D.C. 20591. All communications received on or before February 13, 1974, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. Comments are specifically invited in the potential environment.

Amendment 93-10, effective April 30, 1968, added § 93.113 prohibiting the operation of fixed wing aircraft under the Special VFR weather minimums prescribed in § 91.107 within specifically designated control zones, including Dallas, Texas (Love Field). The preamble to that amendment stated that the FAA's objective in promulgating that rule was, among other things, to develop a system of airspace use and air traffic control and navigation that would permit the movement of people and goods in air commerce at optimum levels of safety and efficiency. For this reason, the Love Field control zone was included in § 93.113.

With the impending opening of the Dallas-Fort Worth Regional Airport, a substantial number of aircraft operations, particularly air carrier operations, will move from Love Field to Dallas-Fort Worth. These operations will no longer be a factor in the air traffic mix within the control zone for Love Field. Because of this significant reduction in air carrier and other traffic volume, the FAA believes that continuation of the current prohibition against the use of Special VFR in § 93.113 would be an unnecessary burden on the users of Love Field. It is, therefore, proposed to delete the control zone for that airport from § 93.113, thereby permitting the Special VFR weather minimums of § 91.107 to be applied to appropriate operations in that control zone.

It is anticipated that as of the opening of the Dallas-Fort Worth Regional Airport there will exist a sufficiently large volume of IFR and air carrier traffic to satisfy the criteria of FAA Order 7400.3 ("Elimination of special VFR in Certain Control Zones"). This document is available, in the regulatory docket, for review by interested persons. It is also anticipated that allowing Special VFR operations will interrupt the orderly movement of IFR traffic under these conditions. Accordingly, it is proposed to include the control zone for this airport in the list in § 93.113 of those control zones within which Special VFR operations are prohibited.

In consideration of the foregoing, it is proposed to amend Part 93 of the Federal Aviation Regulations by deleting the words "9. Dallas, Tex. (Love Field)" from § 93.113 and substituting "9. Dallas/Fort Worth, Texas (Dallas-Fort Worth Regional Airport)" in place thereof.

Issued in Washington, D.C., on January 7, 1974.

RAYMOND G. BELANGER,
Director, Air Traffic Service.

[FR Doc. 74-934 Filed 1-11-74; 8:45 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 572]

[No. 73-1825]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Proposed Accounting Statement of Policy Regarding Investment in Service Corporations

DECEMBER 14, 1973.

The Federal Home Loan Bank Board considers it advisable to amend Part 572 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 572), entitled "Accounting Statements of

Policy", by the addition of a new § 572.4 relating to the accounting procedure to be used by insured institutions in calculating investment in service corporations.

Section 563.23-3 of the Rules and Regulations for Insurance of Accounts (12 CFR 563.23-3), relating to accounting principles and procedures for insured institutions, provides in part that, "for purposes of examination by and reports to the Corporation * * * each insured institution and service corporation shall: (a) employ such specific principles or procedures on particular accounting or reporting matters as the Corporation may require by regulation or otherwise * * * Pursuant to this provision, the Board, as the operating head of the Federal Savings and Loan Insurance Corporation, proposes to issue a new Accounting Statement of Policy to require that an insured institution's investment in a service corporation be calculated and reported as though the service corporation applied the provisions of § 563.23-1 (12 CFR 563.23-1) to the calculation of its earnings. The Board further proposes to re-classify the entire Accounting Statements of Policy part as regulations, and to set forth its provisions within Part 563c (12 CFR Part 563c; "Accounting Requirements"). Part 563c was added by Resolution No. 73-1768, dated November 28, 1973 (38 F.R. 33457).

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Part 572 by adding a new § 572.4 to read as set forth below, and to re-classify said Part 572 and to set forth its provisions within said Part 563c.

Interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue, N.W., Washington, D.C., 20552, by February 15, 1974, as to whether this

proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

§ 572.4 Accounting for investment in service corporation.

(a) *General.* Section 563.23-3 of this chapter provides that each insured institution and service corporation shall employ such specific principles or procedures on particular accounting or reporting matters as the Corporation may require by regulation or otherwise. This statement specifies the Corporation's requirement with respect to the calculation of investments in service corporations by insured institutions.

(b) *Calculation of investment.* For purposes of examination by and reports to the Corporation and of compliance with this subchapter, each service corporation shall be prepared to show its earnings under the provisions of § 563.23-1 of this chapter, and each insured institution shall calculate and report the outstanding book value of its investment in any service corporation as though such service corporation applied the provisions of § 563.23-1 of this chapter to the calculation of its earnings.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL]

EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc. 74-1012 Filed 1-11-74; 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 THE TREASURY

[T.D. 74-17]

Customs Service FOREIGN CURRENCIES Certification of Rates

The appended table shows the rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), which are applicable to the cur-

rencies of the countries listed in Part 159, Subpart C, Customs Regulations (19 CFR Part 159, Subpart C), for the period December 24 through December 28, 1973. This table is published for the information and use of Customs Officers and others concerned, and denotes those currencies which vary by 5 per centum or more from the quarterly rate published in T.D. 73-294.

[SEAL]

R. N. MARRA,
Director, Appraisal and
Collections Division.

| Country | Currency | December 24 | December 25 | December 26 | December 27 | December 28 |
|--------------------------|---------------|-------------|-------------|-------------|-------------|-------------|
| Australia | Dollar | Q | H | Q | Q | Q |
| Austria | Schilling | Q (*) | H | Q (*) | \$0.0505 | \$0.0508 |
| Belgium | Franc | \$0.024570 | H | \$0.024275 | 0.024250 | .024240 |
| Canada | Dollar | Q | H | Q | Q | Q |
| Ceylon | Rupee | Q | H | Q | Q | Q |
| Denmark | Krone | .1613 | H | .1605 | .1594 | .1592 |
| Finland | Markka | Q | H | Q | Q | Q |
| France | Franc | .2160 | H | .2123 | .2129 | .2126 |
| Germany | Deutsche mark | .3740 | H | .3735 | .3709 | .3701 |
| India | Rupee | Q | H | Q | .1225 | .1225 |
| Ireland | Pound | Q | H | Q | Q | Q |
| Italy | Lira | .001850 | H | .001852 | .001647 | .001642 |
| Japan | Yen | .008567 | H | .008568 | .008563 | .008566 |
| Malaysia | Dollar | Q | H | Q | Q | .4095 |
| Mexico | Peso | Q | H | Q | Q | Q |
| Netherlands | Guilder | .3550 | H | .3550 | .3541 | .3541 |
| New Zealand | Dollar | Q | H | Q | Q | Q |
| Norway | Krone | Q | H | Q | Q | Q |
| Portugal | Escudo | Q (*) | H | Q (*) | .0389 | .0388 |
| Republic of South Africa | Rand | Q | H | Q | Q | Q |
| Spain | Peseta | Q (*) | H | Q | Q | Q |
| Sweden | Krona | .2198 | H | .2185 | .2186 | .2185 |
| Switzerland | Franc | .3140 | H | .3135 | .3095 | .3079 |
| United Kingdom | Pound | Q | H | Q | Q | Q |

H=Holiday.

*=Rate certified as "not available." Use last preceding rate shown.

Q=Use quarterly rate published in T.D. 73-294.

[FR Doc.74-925 Filed 1-11-74; 8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE

Cancellation Notice of Regional Meeting

Reference FR Doc. 73-27205, appearing on page 35497 in the issue for Friday, December 28, 1973, the regional meeting of the National Committee for Employer Support of the Guard and Reserve scheduled for January 15, 1974, in Lincoln, Nebraska, is cancelled.

MAURICE W. ROCHE,

Director, Correspondence and Directives OASD (Comptroller).

JANUARY 10, 1974.

[FR Doc.74-1040 Filed 1-11-74; 8:45 am]

DEPARTMENT OF THE INTERIOR

National Park Service

GRAND CANYON NATIONAL PARK

Notice of Intention To Extend Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat.

969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Emery C. Kolb, authorizing him to operate a motion picture, lecture, and photographic studio for the public on the South Rim of Grand Canyon National Park, Arizona, for a period of one (1) year from January 1, 1974, through December 31, 1974.

The foregoing concessioner has performed his obligations under the expired contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. In addition, he has a lifetime right to full possession of the property used in the operation. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before February 13, 1974.

Interested parties should contact the Assistant Director, Concessions Manage-

ment, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: January 7, 1974.

RUSSELL E. DICKENSON,
Acting Director,
National Park Service.

[FR Doc.74-978 Filed 1-11-74; 8:45 am]

GREAT SMOKY MOUNTAINS NATIONAL PARK

Notice of Intention To Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Floyd E. Cate, authorizing him to provide concession facilities and services for the public at Cades Cove, within Great Smoky Mountains National Park, for a period of five (5) years from January 1, 1974, through December 31, 1978.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the human environment and that it is not a major Federal action under the Environmental Quality Act and the guidelines of the Council on Environmental Quality. The environmental assessment may be reviewed in the Office of the Superintendent, Great Smoky Mountains National Park, Gatlinburg, Tennessee 37738.

The foregoing concessioner has performed his obligations under the expired permit to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and/or in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before February 13, 1974.

Interested parties should contact the Assistant Director, Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: January 2, 1974.

JON A. FAUST,
Acting Director,
National Park Service.

[FR Doc.74-936 Filed 1-11-74; 8:45 am]

National Park Service
SALEM MARITIME NATIONAL
HISTORIC SITE

Notice of Intention To Issue a Concession
Permit

Pursuant to the provisions of section 5, of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on February 13, 1974 the Department of the Interior, through the Superintendent, Salem Maritime National Historic Site, proposes to issue a concession permit to Edward B. Rushford authorizing him to provide concession facilities and services for the public at Salem Maritime National Historic Site for a period of five (5) years from January 1, 1974 through December 31, 1978.

The foregoing concessioner has performed his obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted by February 13, 1974.

Interested parties should contact the General Superintendent, Boston Group, Post Office Box 160, Concord, Massachusetts 01742, for information as to the requirements of the proposed permit.

H. J. DOBROVOLNY,
Superintendent, Salem Maritime
National Historic Site.

[FR Doc.74-867 Filed 1-11-74;8:45 am]

Office of Coal Research
ADVISORY COMMITTEE AND PANELS
Supplement to Notice of Meeting

Supplementing the notice of January 3, 1973, in FEDERAL REGISTER Volume 39, Number 2, Part I (39 FR 835), announcing the meeting of the Office of Coal Research General Technical Advisory Committee scheduled to begin at 10 a.m. January 22, Room 8070, at the U.S. Department of the Interior, 18th and E Streets NW., Washington, D.C., this is to advise that the following two items constitute an addendum to the aforementioned agenda for the meeting of January 22:

1. Discussion of OCR/A.G.A. Steering Committee Meeting.
2. Proposed reorganization of OCR.

Signed at Washington, D.C., on January 8, 1974.

GEORGE FUMICH, JR.,
Acting Director,
Office of Coal Research.

[FR Doc.74-1001 Filed 1-11-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service
SHIPPERS ADVISORY COMMITTEE

Notice of Public Meeting

Pursuant to the provisions of § 10(a) (2) of Public Law 92-463, notice is hereby

given of a meeting of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905). This order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The committee will meet in the auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida, at 10:30 a.m., local time, on January 22, 1974.

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

The names of committee members, agenda, summary of the meeting and other information pertaining to the meeting may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813-682-3103.

Dated: January 9, 1974.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.74-1051 Filed 1-11-74;8:45 am]

Farmers Home Administration

[Notice of Designation No. A037]

LOUISIANA

Designation of Emergency Areas

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

Evangeline
Lafayette

The Secretary has further found that such general need for agricultural credit existing in these areas cannot be met temporarily by private, cooperative, or other responsible sources at reasonable rates and terms for loans for similar purposes and periods of time, and that the need for such credit in such areas is the result of a natural disaster consisting of excessive and untimely rains during the 1973 crop season in *Evangeline Parish*. The most damaging rains occurred in March, April, and May 1973. Especially damaging rains occurred from Tropical Storm Della September 3-14, 1973. *Lafayette Parish* had continuous rains during September 1973. High winds and rain occurred from Tropical Storm Della September 3-14, 1973.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-24, and the provisions of 7 CFR 1832.3(b) including the recommendation

of Governor Edwin Edwards that such designation be made.

Applications for Emergency loans must be received by this Department prior to February 28, 1974, for physical losses and prior to October 1, 1974, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 7th day of January 1974.

J. R. HANSON,
Acting Administrator,
Farmers Home Administration.

[FR Doc.74-965 Filed 1-11-74;8:45 am]

Forest Service

LAND USE PLAN, EAGLE CREEK
PLANNING UNIT

Notice of 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 Eagle Creek Planning Unit. Report number USDA-FS-DES (Adm) 74-60.

The environmental statement concerns a proposed comprehensive land use plan for the 75,260 acre area known as the Eagle Creek Planning Unit.

This draft environmental statement was filed with CEQ on January 4, 1974.

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

USDA, Forest Service
South Agriculture Bldg., Room 3231
12th St. & Independence Ave., S.W.
Washington, D.C. 20250

USDA, Forest Service
Pacific Northwest Region
319 S.W. Pine Street
Portland, Oregon 97204

A limited number of single copies are available upon request to Forest Supervisor Wright T. Mallory, 340 NE 122nd Avenue, Portland, Oregon 97216.

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 Wright T.

Mallery, 340 NE 122d Avenue, Portland, Oregon 97216. Comments must be received by April 1, 1974 in order to be considered in the preparation of the final environmental statement.

ADRIAN M. GILBERT,
Acting Deputy Chief,
Forest Service.

JANUARY 8, 1974.

[FR Doc.74-1003 Filed 1-11-74;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric
Administration

DONALD B. SINIFF

Issuance of Permit for Marine Mammals

On November 13, 1973, a notice was published in the FEDERAL REGISTER (38 FR 31328), stating that an application had been filed with the National Marine Fisheries Service by Donald B. Siniff, Associate Professor, Department of Ecology and Behavioral Biology, University of Minnesota, St. Paul, Minnesota, for a permit to continue research on crabeater (*Lobodon carcinophagus*), leopard (*Hydrurga leptonyx*), Ross (*Ommatophoca rossi*) and Weddell (*Leptonychotes weddelli*) seals in Antarctic waters.

Notice is hereby given that pursuant to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), after having considered the application and all other pertinent information and facts, with regard thereto, the National Marine Fisheries Service issued a Permit on January 3, 1974, to Donald B. Siniff, subject to certain conditions set forth in the Permit, which is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C.

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

JANUARY 9, 1974.

[FR Doc.74-1010 Filed 1-11-74;8:45 am]

WOMETCO MIAMI SEAQUARIUM AND GLADYS PORTER ZOO

Notice of Applications for Public Display Permits

Notice is hereby given that the following applicants have applied for permits to take marine mammals for public display as authorized by section 101(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and Section 216.12 of the Regulations Governing the Taking and Importing of Marine Mammals (37 FR 28177, December 21, 1972) and pursuant to the instructions for preparing applications for permits (38 FR 26622, September 24, 1973). The Secretary considers the following applications sufficient for consideration under the provisions of § 216.15(a) of the regulations.

1. Wometco Miami Seaquarium, 30 Rickenbacker Causeway, Miami, Florida 33149, to take three Atlantic bottle-nose

dolphins (*Tursiops truncatus*) for public display.

The Applicant states:

a. The dolphins will be captured prior to May 15, 1974, in the Indian River, near Melbourne, Florida or in Biscayne Bay, near Miami, Florida;

b. Capture will be conducted by Seaquarium personnel using a 72 foot collection boat and two smaller boats. A small boat with a long net will encircle a pod of dolphins, from which individual animals will be selected and placed aboard a small skiff. The animals will be placed in stretchers suspended within waterproof plywood boxes and transported by truck to the Seaquarium facility. The staff veterinarian at Seaquarium will be present at capture and during transport;

c. Two of the requested dolphins will replace recently deceased animals, which had been performing at Seaquarium for approximately 10 years prior to their deaths, from an apparent infectious liver disease. The third requested dolphin will replace an animal which, while still undergoing training, has been transferred to a research project involving the visual acuity of dolphins;

d. All three dolphins, following a quarantine period, will be placed on a training schedule and eventually incorporated into one of the show themes of Seaquarium. The animals will be maintained in large concrete tanks, from 10,000 to 500,000 gallons in capacity and at least seven feet in depth. Filtered water is supplied to the tanks from Biscayne Bay;

e. The animals will perform in two shows a day lasting approximately 10 minutes each. The shows are presented every day of the year;

f. Seaquarium hosts in excess of one million visitors annually. An active educational and scientific program includes lectures to school and civic groups, research projects for local high school students, weekly lectures and participation in "wet labs" for elementary school students, university classes, an annual U.S. Navy Survival school, and access to facilities by professional researchers.

g. The new Assistant Manager, Mr. Warren Zeiller, was the Seaquarium Curator for 5 to 6 years prior to becoming an administrator. The veterinary staff consists of Dr. Carl Chapman, who received his Doctorate of Veterinary Medicine from the University of Georgia in 1971, and a veterinary technician who is still undergoing training. The Director of Operations has 17 years experience in transport and initial care of marine mammals, and has designed several of the transport facilities used at Seaquarium. The captain of the capture boat, Charles Buie, has 7 years experience in capturing and transporting marine mammals, at ABC Marine World and at Seaquarium. He is assisted by two crewmembers, with 4 to 5 years experience.

2. Gladys Porter Zoo, 500 Ringgold Street, Brownsville, Texas 78520, to take 5 male and 5 female California sea lions (*Zalophus californianus*) for public display.

The Applicant states:

a. The animals will be taken prior to April 1, 1974, by a professional collector under appropriate wind and temperature conditions, from the beaches of the Channel Islands, California, acclimated by the collector and transported to the facility by commercial airlines;

b. The animals will be housed in a 350,000 gallon display tank with two islands to provide for emergence from the water;

c. The Director of Gladys Porter Zoo, Dr. Thomas, graduated from Ohio State University, with a Bachelor of Science Degree and a Doctor's Degree in Veterinary Medicine.

Don D. Farst, D.V.M., Associate Director, graduated from Ohio State with a Degree of Doctor of Veterinary Medicine.

Patrick M. Burchfield, Curator, has 5½ years experience as head keeper with Columbus, Ohio Zoo and was Curator of Serpentarium at the Army Medical Research Laboratory, Fort Knox, Kentucky, for 3½ years;

d. The Zoo is a totally non-profit institution that is visited by well over 300,000 people each year.

The above Applicants' facilities and arrangements for maintaining and transporting marine mammals have been inspected by licensed veterinarians, who have certified that such facilities and arrangements are adequate to ensure the well-being of the animals.

Documents submitted in connection with these applications are available as follows:

Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, telephone 202-343-4543 (both applications);

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702, telephone 813-893-3141 (both applications);

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731, telephone 213-831-9281 (Application No. 2).

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is sending copies of the applications to the Marine Mammal Commission and the Committee of Scientific Advisors.

Pursuant to § 216.15 of the Regulations, interested parties may submit written data or views on these applications by February 19, 1974.

Comments should be sent to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

All statements and opinions contained in this notice in support of these applications are those of the Applicants and do not reflect the views of the National Marine Fisheries Service.

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

JANUARY 9, 1974.

[FR Doc.74-1009 Filed 1-11-74;8:45 am]

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Office of Education

**ADVISORY COUNCIL ON DEVELOPING
INSTITUTIONS**

Notice of Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), that the next meeting of the Advisory Council on Developing Institutions will be held on January 28 and 29, 1974, from 9:00 a.m. to 4:00 p.m. in Room 3008 at the Office of Education, 400 Maryland Avenue, SW., Washington, D.C.

The Advisory Council on Developing Institutions was established by Title III of the Higher Education Act of 1965, as amended. The Council is governed by the provisions of Part D of the General Education Provisions Act and of the Federal Advisory Committee Act (P.L. 92-463). The Council shall assist the Commissioner in identifying the characteristics of developing institutions through which the purpose of Title III may be achieved, and in establishing the priorities and criteria to be used in making grants under Section 304(a) of that Title.

The meeting of the Council shall be open to the public. The proposed agenda includes (1) scheduling and planning of site visits; (2) consideration of five-year waiver technical amendment for Spanish-speaking institutions; (3) progress of institutions now covered by the five-year waiver for American Indian institutions; (4) publicizing of June meeting; (5) preparation of annual report; (6) statement of support for continuation of Basic Title III program; (7) report on public reaction to Title III regulations; (8) evaluation procedure of AIDP—report on the FY 73 competition; (9) consideration of technical amendment to expand the Advisory Council to ten members. Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the Director of the College and University Unit, DCHE, located in Room 4015, 400 Maryland Avenue, SW.

Signed at Washington, D.C. on January 9, 1974.

PRESTON VALIEN,
*Director, College and University
Unit, Office of the Deputy
Commissioner for Higher Edu-
cation.*

[FR Doc.74-968 Filed 1-11-74;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket Nos. 50-471, 50-472]

BOSTON EDISON CO., ET AL.

Notice of Receipt of Applications for Construction Permits and Facility Licenses and Availability of Applicants' Environmental Report; Time for Submission of Views on Antitrust Matter

The Boston Edison Company, Central Maine Power Company, Central Vermont Public Service Corporation, The Connecticut Light and Power Company, Fitch-

burg Gas and Electric Light Company, Montaup Electric Company, New Bedford Gas and Edison Light Company, New England Power Company, Public Service Company of New Hampshire, The United Illuminating Company, Western Massachusetts Electric Company, Ashburnham Light Department, Braintree Electric Light Department, Holyoke Gas and Electric Department, Hudson Light and Power Department, Marblehead Municipal Light Department, Middleboro Municipal Gas and Electric Department, Middleton Municipal Light Department, North Attleborough Electric Department, Paxton Municipal Light Department, Templeton Municipal Light Plant, and The Electric Department of the City of Burlington (applicants) pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, have filed an application, which was docketed on December 21, 1973, for authorization to construct and operate a generating unit utilizing a pressurized water reactor designated by the applicants as Pilgrim Nuclear Generating Station, Unit 2. In addition, the Boston Edison Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, which was docketed on December 21, 1973, for authorization to construct and operate a generating unit utilizing a pressurized water reactor designated by the applicant as Pilgrim Nuclear Generating Station, Unit 3. The applications were tendered on June 7, 1973. Following a preliminary review for completeness, they were rejected on July 16, 1973, for lack of sufficient information. The applicants submitted additional information on November 28, 1973, and the applications were found to be acceptable for docketing. Docket Nos. 50-471 and 50-472 have been assigned to the applications and should be referenced in any correspondence relating to the applications.

The proposed nuclear facilities are located on the applicant's site on the western shore of Cape Cod Bay and south of Plymouth Bay in the Town of Plymouth, Plymouth County, Massachusetts. The site is approximately 4½ miles south-southeast of the town center and approximately 38 miles southeast of Boston, Massachusetts. Each reactor is designed for initial operation at approximately 3456 megawatts (thermal), with a net electrical output of approximately 1180 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust matters of the applications presented to the Attorney General for consideration should submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing—Regulation, on or before March 15, 1974. The request should be filed in connection with Docket Nos. 50-471-A and 50-472-A.

A copy of the applications is available for public inspection at the Commis-

sion's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545, and at the Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

The applicants have also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, an Environmental Report dated January 1974. The report, which discusses environmental considerations related to the construction and operation of the proposed facilities, is being made available for public inspection at the aforementioned locations and at the Office of State Planning and Management, Leverett Saltonstall Building, 100 Cambridge Street, Room 909, Boston, Massachusetts 02202 and at the Southeastern Massachusetts Regional Planning and Economic Development District, 68 Winthrop Street, Taunton, Massachusetts 02780.

After the Environmental Report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission's Regulatory staff. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland, this 4th day of January, 1974.

For the Atomic Energy Commission.

D. B. VASSALLO,
*Chief, Light Water Reactors
Project Branch 1-1, Director-
ate of Licensing—Regulation.*

[FR Doc.74-904 Filed 1-11-74;8:45 am]

[Docket Nos. 50-471, 50-472]

BOSTON EDISON CO., ET AL.

Notice of Hearing on Applications for Construction Permits

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held by an Atomic Safety and Licensing Board (Board), to consider the applications filed under the Act by the Boston Edison Company, Central Maine Power Company, Central Vermont Public Service Corporation, The Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Montaup Elec-

tric Company, New Bedford Gas and Edison Light Company, New England Power Company, Public Service Company of New Hampshire, The United Illuminating Company, Western Massachusetts Electric Company, Ashburnham Light Department, Braintree Electric Light Department, Holyoke Gas and Electric Department, Hudson Light and Power Department, Marblehead Municipal Light Department, Middleboro Municipal Gas and Electric Department, Middleton Municipal Light Department, North Attleboro Electric Department, Paxton Municipal Light Department, Templeton Municipal Light Plant, and The Electric Department of the City of Burlington (the applicants), for a construction permit for a pressurized water nuclear reactor designated as the Pilgrim Nuclear Generating Station, Unit 2, and the application filed under the Act by the Boston Edison Company for a construction permit for a pressurized water nuclear reactor designated as the Pilgrim Nuclear Generating Station, Unit 3. Both Pilgrim Nuclear Generating Station, Units 2 and 3 (the facilities) are designed for operation at approximately 3456 thermal megawatts each with a net electrical output of approximately 1180 megawatts each. The proposed facilities are to be located on the western shore of Cape Cod Bay and south of Plymouth Bay in the Town of Plymouth, Plymouth County, Massachusetts.

The hearing, which will be scheduled to begin in the vicinity of the site of the proposed facilities, will be conducted by an Atomic Safety and Licensing Board (Board) which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel, consisting of Dr. A. Dixon Callihan, Dr. Richard F. Cole, and Max D. Paglin, Esq., Chairman.

Pursuant to 10 CFR 2.785, an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER at a later date.

Upon completion by the Commission's regulatory staff of a favorable safety evaluation of the applications and an environmental review and upon receipt of a report by the Advisory Committee on Reactor Safeguards, the Director of Regulation will consider making affirmative findings on Items 1-3, a negative finding on Item 4, and an affirmative finding on Item 5 specified below as a basis for the issuance of construction permits to the applicants:

ISSUES PURSUANT TO THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

1. Whether in accordance with the provisions of 10 CFR 50.35(a):

(a) The applicants have described the proposed design of the facilities including, but not limited to, the principal architectural and engineering criteria for the design, and have identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicants and the applicants have identified, and there will be conducted a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the applications for completion of construction of the proposed facilities, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facilities can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether the applicants are technically qualified to design and construct the proposed facilities;

3. Whether the applicants are financially qualified to design and construct the proposed facilities; and

4. Whether the issuance of permits for construction of the facilities will be inimical to the common defense and security or to the health and safety of the public.

ISSUE PURSUANT TO NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA)

5. Whether, in accordance with the requirements of Appendix D of 10 CFR Part 50, the construction permits should be issued as proposed.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR 2.4(n), the Board will determine: (1) without conducting a *de novo* evaluation of the applications, whether the applications and the record of the proceeding contain sufficient information, the review of the applications by the Commission's regulatory staff has been adequate to support the proposed findings to be made by the Director of Regulation on Items 1-4 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permits proposed by the Director of Regulation; and (2) whether the review conducted by the Commission pursuant to NEPA has been adequate.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as issues in this proceeding, Items 1-5 above as a basis for determining whether the construction permits should be issued to the applicants.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50: (1) determine whether the requirements of sec-

tion 102(2) (C) and (D) of NEPA and Appendix D of 10 CFR Part 50 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; and (3) determine whether the construction permits should be issued, denied, or appropriately conditioned to protect environmental values.

The Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within sixty (60) days after the notice of hearing is published or at such other time as the Board deems appropriate, for the purpose of dealing with the matters specified in 10 CFR 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any required special prehearing conference, and within sixty (60) days after discovery has been completed or at such other time as the Board may specify, for the purpose of dealing with the matters specified in 10 CFR 2.752.

The Board will set the time and place for any special prehearing conference, prehearing conference and evidentiary hearing and the respective notices will be published in the FEDERAL REGISTER.

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may make an oral or written statement on the record. He does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of Items 1-5 above. Limited appearances will be permitted at the time of the hearing at the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission and others in the manner specified below.

Any person whose interest may be affected by the proceeding, who wishes to participate as a party in the proceeding must file a written petition under oath or affirmation for leave to intervene in accordance with the provisions of 10 CFR 2.714. A petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be ac-

companied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have all the rights of the applicants to participate fully in the conduct of the hearing, such as the examination and cross-examination of witnesses, with respect to their contentions related to the matters at issue in the proceeding.

A petition for leave to intervene must be filed with the Secretary of the Commission and others as specified below by February 13, 1974. A petition for leave to intervene which is not timely will not be granted unless the Board determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Board has considered those factors specified in 10 CFR 2.714(a)(1)-(4) and 2.714(d).

An answer to this notice, pursuant to the provisions of 10 CFR 2.705, must be filed by the applicants by February 4, 1974.

Papers required to be filed in this proceeding shall be filed by mail or telegram addressed to the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and twenty (20) conformed copies of each such paper with the Commission. A copy of the petition or request for limited appearance should also be sent to the Chief Hearing Counsel, Office of the General Counsel, Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545 and to Dale G. Stoodley, Counsel, Boston Edison Company, 800 Boylston Street, Boston, Massachusetts 02199, attorney for the applicants.

For further details, see the applications for construction permits dated December 21, 1973, and amendments thereto, and the applicants' environmental report dated January 1974, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., between the hours of 8:30 a.m. and 5:00 p.m. on weekdays. Copies of those documents are also available at the Plymouth Public Library, North Street, Plymouth, Massachusetts 02360 for inspection by members of the public between the hours of 9:30 a.m. and 8:00 p.m. Monday through Friday and 9:30 a.m. and 6:00 p.m. on Saturday. As they become available, a copy of the safety evaluation report by the Commis-

sion's Directorate of Licensing, the Commission's draft and final environmental statements, the report of the Advisory Committee on Reactor Safeguards (ACRS), the proposed construction permits, the transcripts of the prehearing conferences and of the hearing, and other relevant documents, will also be available at the above locations. Copies of the Directorate of Licensing's safety evaluation report and the Commission's final environmental statement, the proposed construction permits, and the ACRS report may be obtained, when available, by request to the Deputy Director for Reactor Projects, Directorate of Licensing, United States Atomic Energy Commission, Washington, D.C. 20545.

Dated at Washington, D.C. this 9th day of January 1974.

UNITED STATES ATOMIC
ENERGY COMMISSION,
GORDON M. GRANT,
Acting Secretary of
the Commission.

[FR Doc.74-1054 Filed 1-11-74;8:45 am]

[Docket Nos. 50-452, 50-453]

DETROIT EDISON CO.

Notice of Reconstitution of Board

In the matter of The Detroit Edison Co. (Greenwood Center Units 2 and 3).

Fredric T. Suss, Esq. was Chairman of the Atomic Safety and Licensing Board established to consider the above application. Because of a scheduling conflict, Mr. Suss is unable to continue in his duties as Chairman of this Board.

Accordingly, James R. Yore, Esq., the Alternate Chairman, is hereby appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Rules of Practice, as amended.

Dated at: Washington, D.C. this 9th day of January 1974.

NATHANIEL H. GOODRICH,
Chairman, Atomic Safety
and Licensing Board Panel.

[FR Doc.74-975 Filed 1-11-74;8:45 am]

[Docket No. 50-335]

FLORIDA POWER AND LIGHT CO.

Order Extending Construction Completion Date

Florida Power and Light Company is the holder of Provisional Construction Permit No. CPPR-74 issued by the Commission on July 1, 1970 for construction of the St. Lucie Plant Unit No. 1, presently under construction on Florida Power and Light Company's site on Hutchinson Island about halfway between Ft. Pierce and Stuart on the east coast of Florida.

On November 1, 1973, Florida Power and Light filed a request for an extension of the completion date because construction has been delayed due to modifications in system design and a number of unexpected events which include: (1)

More extensive than anticipated dewatering, excavation and backfill operations, (ii) concrete placements were larger and took longer than anticipated, (iii) extended adverse weather conditions, (iv) late delivery of equipment, (v) changes in the design of the cooling water intake system, and (vi) lower than predicted labor productivity.

This action involves no significant hazards consideration; good cause has been shown for the delay; and the requested extension is for a reasonable period, the bases for which are set forth in a staff evaluation dated December 4, 1973.

It is hereby ordered, That the latest completion date for CPPR-74 is extended from January 1, 1974 to December 31, 1975.

For the Atomic Energy Commission.

Date of Issuance: December 28, 1973.

ROGER S. BOYD,
Assistant Deputy Director.

[FR Doc.74-976 Filed 1-11-74;8:45 am]

REGULATORY GUIDES

Notice of Issuance and Availability

The Atomic Energy Commission has issued a new guide in its Regulatory Guide series. This series has been developed to describe and make available to the public methods acceptable to the AEC Regulatory staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The new guide is in Division 1, "Power Reactor Guides." Revision 1 to Regulatory Guide 1.49, "Power Levels of Nuclear Power Plants," further implements AEC policy on standardization in that it applies the previously established reactor core thermal power limit of 3,800 megawatts to all licensed reactors, including high temperature gas-cooled reactors, rather than just to light water cooled reactors. In addition, it removes the limitation that only the light water cooled reactors will be considered for standardization.

The revised guide also states that it will be at least five years (until January 1979, at the earliest) before the Regulatory staff will accept construction permit applications for plants with thermal power levels greater than 3,800 megawatts for licensing review. The AEC will give notice at least two years in advance as to when it will accept applications for higher power levels.

The revised guide also clarifies the plant analyses which must be included in the construction permit application in support of operation up to the maximum proposed power level of 3,800 megawatts.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Comments and suggestions

in connection with improvements in the guides are encouraged and should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff. Requests for single copies of issued guides or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

Other Division 1 Regulatory Guides currently being developed include the following:

Availability of Electric Power Sources.
Requirements for Instrumentation to Assess Nuclear Power Plant Conditions During and Following an Accident for Water-Cooled Reactors.
Shared Emergency and Shutdown Power Systems at Multi-Unit Sites.
Physical Independence of Safety Related Electric Systems.
Isolating Low Pressure Systems Connected to the Reactor Coolant Pressure Boundary. Assumptions for Evaluating a Control Rod Ejection Accident for Pressurized Water Reactors.
Assumptions for Evaluating a Control Rod Drop Accident for Boiling Water Reactors.
Requirements for Collection, Storage, and Maintenance of Quality Assurance Records for Nuclear Power Plants.
Requirements for Assessing Ability of Material Underneath Nuclear Power Plant Foundations to Withstand Safe Shutdown Earthquake.
Qualification Tests of Electric Valve Operators for Use in Nuclear Power Plants.
Fire Protection Criteria for Nuclear Power Plants.
Protective Coatings for Nuclear Reactor Containment Facilities.
Inservice Surveillance of Grouted Prestressing Tendons.
Seismic Input Motion to Uncoupled Structural Model.
Primary Reactor Containment (Concrete) Design and Analysis.
Preservice Testing of In-Situ Components. Category I Structural Foundations.
Quality Assurance Requirements for Installation, Inspection, and Testing of Mechanical Equipment and Systems.
Quality Assurance Requirements for Installation, Inspection, and Testing of Structural Concrete and Structural Steel.
Fracture Toughness Requirements for Vessels Under Overstress Conditions.
Applicability of Nickel-base Alloys and High Alloy Steels.
Material Limitations for Component Supports.
Protection Against Postulated Events and Accidents Outside of Containment.
Design Basis Tornado for Nuclear Power Plants.
Requirements for Auditing of Quality Assurance Programs for Nuclear Power Plants.
Assumptions used for Evaluating the Potential Radiological Consequences of a Boiling Water Reactor Gas Holdup Tank Failure.
Quality Assurance Requirements for Procurement of Equipment, Materials, and Services.
Quality Assurance Requirements for Lifting Equipment.
Maintenance and Testing of Batteries.
Qualification of Class I Electrical Equipment.
Type Tests for Class I Cables and Connectors Installed Inside the Containment.

Seismic Qualification of Class I Electric Equipment.
Fracture Toughness Requirements for Materials for Class 2 and 3 Components.
Maintenance of Water Purity in PWR Secondary Systems.
Main Steam Line Sealing System Design Guidelines for Boiling Water Reactors.
Nuclear Reactor Glossary of Terms.
Criteria for Heatup and Cooldown Procedures.
Effects of Residual Elements on Predicted Radiation Damage.
Welder Qualification for Limited Accessibility Areas.
Inservice Inspection and Testing of Steam Generators.
Component Design Criteria for Elevated Temperature Reactors.
Quality Assurance Terms and Definitions.
Preoperational Testing of Emergency Core Cooling Systems for Pressurized Water Reactors.
Fuel Oil Supplies for Standby Diesel Generators.
Assumptions Used for Evaluating the Habitability of a Nuclear Power Plant Control Room During a Postulated Toxic Chemical Release.

(5 U.S.C. 552(a))

Dated at Bethesda, Md., this 3d day of January, 1974.

For the Atomic Energy Commission.

LESTER ROGERS,

Director of Regulatory Standards.

[FR Doc.74-974 Filed 1-11-74;8:45 am]

[Docket No. 50-395; Construction Permit No. CPPR-94]

SOUTH CAROLINA ELECTRIC AND GAS CO.

Order Suspending Certain Construction Activities

By order dated December 7, 1973, South Carolina Electric and Gas Company, Post Office Box 764, Columbia, South Carolina ("the licensee"), was ordered to show cause why further construction at the site of Seismic Category I structures under Construction Permit No. CPPR-94 should not be suspended pending completion of an investigation and evaluation of geologic faults at the construction site.

Pursuant to 10 CFR 2.202 the licensee on January 2, 1974 filed an answer consenting to the entry of an order in accordance with the Order to Show Cause.

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:

Further construction of Seismic Class I structures at the Plant Site of the Virgil C. Summer Nuclear Station, Unit 1 be suspended pending completion of the investigation and evaluation of the geologic faults described in Section II of the Order to Show Cause to the licensee dated December 7, 1973.

Dated at Bethesda, Maryland, this 10th day of January, 1974.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.74-1181 Filed 1-11-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets Nos. 26057, 26075; Order 73-12-109]

PAN AMERICAN WORLD AIRWAYS, INC. ET AL.

Order Denying Petition for Reconsideration, Provisionally Approving Agreement, and Deferring Action

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of December, 1973.

On October 12, 1973, the Energy Policy Office adopted regulations pursuant to the Economic Stabilization Act of 1970, as amended by Pub. L. 93-28, April 30, 1973, establishing a mandatory fuel allocation program that imposes controls on "middle distillate fuel," including airline turbine fuel.¹ By Order 73-11-34, November 8, 1973, the Board authorized United States and foreign-flag air carriers providing international scheduled air services to and from the United States to engage in discussions looking toward agreements on schedule adjustments, capacity limitation, and consolidation of operations in foreign air transportation.²

Pursuant to that order, discussions have been held, inter alia, among the air carriers of the United States and British Overseas Airways Corporation (BOAC) of the United Kingdom which provide scheduled services between these two countries. Such discussions were held on November 15, 1973 in Washington, D.C. and on November 20, 1973 in London.³ As a result of such discussions certain agreements on frequency reductions in several United States-United Kingdom city-pair markets have been reached. These include an agreement among Pan American World Airways, Inc. (Pan American), Trans World Airways, Inc. (TWA), and BOAC regarding the Philadelphia-London and Boston-London markets (Agreement CAB 25109) and an agreement between TWA and BOAC regarding the Chicago-London market (Agreement CAB 25110). In this application, approval of the Philadelphia/Boston/Chicago-London agreements is requested.

The agreements provide that in each of the three markets, Philadelphia-London, Boston-London, and Chicago-London, each of the carriers serving these markets would reduce its nonstop frequencies, in terms of weekly round trips, from 7 to 5 during the effective periods of the agreements.⁴ The agreements further provide that the carriers may operate

¹ EPO Reg. 1, 38 F.R. 28660.

² National Air Carrier Association (NACA) filed a petition for reconsideration.

³ A transcript of the meeting in Washington, D.C. and summary reports of the meeting in London have been filed with the Board in Dockets 26057 and 26075 as required by Order 73-11-34, supra.

⁴ In the Philadelphia/Boston-London markets, all the frequencies will be operated with narrow-body aircraft, B-707 or VC-10, as operated today in these markets. In the Chicago-London market, all frequencies will be operated with wide-body aircraft as is

extra sections for operational reasons or unusual demand. However, such extra sections operated by each carrier are to be limited in frequency to a maximum of three in any single week and a total of six during the entire period of the respective agreements in each direction.⁵

By their terms, the agreements provide that the specified service alterations would be implemented, subject to prior Board approval, on the fifth day following the date of the settlement of the recent TWA strike, but in no event prior to December 10. With respect to the Philadelphia-London and Chicago-London markets, the period of the agreement extends through April 27, 1974. With respect to Boston-London, the agreement extends to December 31, 1973.⁶ In the event of a cessation or curtailment of service by any of the parties resulting from a labor dispute or other cause beyond the control of that party, the limitations of the agreement will be suspended during the period of such cessation or curtailment.

Comments in opposition to Agreement CAB 25109 insofar as it involves Pan American's service between London and Philadelphia have been filed by the State Aviation Administration of the Maryland Department of Transportation (Maryland DOT). Also, an answer in opposition to both agreements has been filed by NACA.

In support of their requests, the carriers state that the agreements provide for service reductions which are compelled by the shortage of fuel; that the significant savings in fuel consumption will be effected;⁷ and that, under the established maximum scheduled frequency levels, a better pattern of services for the traveling public would result,

the case at present. The agreements specify which carriers, under the established maximum scheduled frequency levels, will operate on which days of the week so that nonstop service may be maintained in each direction on every day of the week and capacity coordinated with demand peaking to the extent possible.

⁵ Such extra sections cannot be published, advertised or otherwise held out to the public.

⁶ The parties plan to give further consideration to possible agreements on Boston-London service to be operated after December 31, 1973.

⁷ The carriers estimate that fuel savings by the three carriers will amount to 156,050 gallons per week in the Boston-London market, and 190,818 gallons per week in the Philadelphia-London market during each week that the agreement is in effect. In the Chicago-London market, fuel savings by BOAC and TWA will amount to 232,930 gallons per week. In the Philadelphia-London market, if the reductions begin as early as December 31, 1973 and extend through April 27, 1974, the total fuel savings during that period of 17 weeks would be approximately 3,243,906 gallons. In the Chicago-London market, the fuel savings during the same maximum, potential period extending through April 27, would be approximately 3,959,810 gallons. During the relatively short potential period of the Boston-London agreement, the maximum of fuel savings would average approximately 22,198 gallons per day.

than that resulting from unilateral cutbacks,⁸ and adequate capacity would be maintained in the Philadelphia/Boston/Chicago-London markets.⁹

Maryland DOT contends that the agreement, insofar as it involves Pan American's London-Philadelphia service, would result in eliminating the only flight between Baltimore-Washington International Airport (BAL) and London two days a week by reason of agreed reduction in Pan American's service to Philadelphia where the only daily flight from London to the BAL airport stops westbound.¹⁰ NACA requests that the Board disapprove the agreements, or alternatively, attach a condition that the transatlantic charter volume of the agreement carriers, in any month during the term of the agreements, not exceed the volume of charters performed by that carrier during the same month in the 12-month period preceding the agreements.

The air transportation industry is being faced with a critical shortage of fuel. As a result, Pan American, TWA, and BOAC must cut back on fuel consumption on international services. In order to meet the cutback levels, the carriers must make fuel-savings adjustments to their schedules. As we have stated in Orders 73-10-110 and 73-11-147, the Board is concerned that unilateral reductions in capacity may result in inadequate levels of service which would be detrimental to the public interest. Accordingly, we feel that mutual reductions in capacity which can be properly monitored by the Board and provide for a continuous level of adequate service will best serve the public interest.

Based on the foregoing, the Board concludes that the agreement (CAB 25110) between TWA and BOAC with respect to scheduled service between Chicago and London should be approved subject to certain conditions.¹¹ The service proposed in this agreement reasonably satisfies the needs of the traveling public as well as saving large amounts of fuel. The London-Chicago market is characterized by

⁸ The agreements allow for the maintenance in each market of nonstop service in each direction on every day of the week, including the off-peak traffic days.

⁹ The carriers estimate that in the Chicago-London market, the average load factor will be 43%; in the Philadelphia-London market, 87%; in the Boston-London market, 84% during the period December 10, 1973 to December 31, 1973.

¹⁰ There is presently pending before the Board an application of Pan American filed on December 10, 1973, to temporarily suspend service, inter alia, at Philadelphia (limited to transatlantic service), and Baltimore, Maryland, Docket 26210.

¹¹ Pending our decision in the Pan American temporary suspension of service at Philadelphia and Baltimore (Docket 26210), we have decided to defer action on the agreement (CAB 25109) among Pan American, TWA, and BOAC involving (in addition to London-Boston service which expires on December 31, 1973) scheduled service between London and Philadelphia. We understand that in the present circumstances the parties have no substantive objection to this action of the Board.

a multiplicity of frequencies which have experienced low-load factors in the past, and under the agreement, is estimated by the carriers to reach 43 percent.¹² Under these circumstances, the traveling public will continue to receive an adequate frequency of service and the carriers will be a step closer toward reaching their allocated fuel levels.

In view of the imminence of the implementation date, and the short period within which the carriers were compelled to adjust schedules, we will grant the request for waiver of the recent amendment to the Board's Procedural Regulations PR-138, which would otherwise require 21 days for answers to the application. However, the Board will receive any comments hereafter filed in this docket as part of its ongoing evaluation of the impact of the agreement. We also find that enforcement of section 405(b) of the Act, requiring 10 days' notice of schedule changes to the Postmaster General, would be an undue burden upon the carrier applicants by reason of the limited extent of, and unusual circumstances affecting their operations and is not in the public interest, particularly in light of the reduced fuel supplies. Pursuant to section 416 of the Act, we will therefore grant TWA an exemption from section 405(b), and from any regulations made pursuant thereto, to permit implementation of the subject schedule changes without 10 days' prior notice to the Postmaster General.¹³

NACA's alternative request that a charter capacity ceiling be attached as a condition of approval of the agreements herein has heretofore been considered and rejected by the Board.¹⁴ However, the Board has repeatedly stated that the transfer of freed-capacity to non-capacity markets will not be tolerated.¹⁵ Thus, in order to effectively monitor the implementation of this agreement the Board will retain jurisdiction, pursuant to section 412 of the Act, for the purpose of modifying, amending or revoking our approval of the agreement at any future date. Furthermore, we shall require each air carrier separately to report within 15 days after the end of each month any schedule changes in the Chicago-London market

¹² However, the Board is particularly concerned with the estimated low-load factor in this market, and the opportunity for further mutual reduction of service without depriving this market of daily nonstop service.

¹³ Likewise, it does not appear that our action here will significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act, since the carriers will have to reduce their schedules in any event because of the fuel shortage. Our action herein merely helps to ensure that such reductions will be accomplished in a rational manner.

¹⁴ No useful purpose would be served in repeating our views on this issue as set forth in Order 73-11-34, supra. Accordingly we will deny NACA's petition for reconsideration, since no new issues are presented.

¹⁵ American Airlines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc., Order 73-10-110, supra.

during the term of the agreement. (See Appendix A.)¹⁰

We have considered the implications of the proposed agreement on TWA's employees. For those reasons detailed at length in Orders 73-12-32, December 7, 1973, which are equally applicable here, we are unable to conclude that the public interest requires the imposition of any labor protective conditions.

Accordingly, it is ordered, That:

1. NACA's petition for reconsideration of Board Order 73-11-34, November 8, 1973, be and it hereby is denied;

2. Agreement CAB 25110 be and it hereby is approved pursuant to section 412 of the Act, subject to the following conditions:

(a) The Board shall retain jurisdiction to modify, amend or revoke approval at any time, or take whatever other action may be deemed appropriate.

(b) Schedule deletions resulting pursuant to the agreement herein approved which occur at O'Hare International Airport and which result in the vacating of slots allocated by the Airline Scheduling Committees of the respective airports pursuant to authority granted in Order 72-11-72, shall not be refilled by the carrier applicants, nor be reallocated to other carriers by the Airlines Scheduling Committees: *Provided, however, That slots originally vacated may be reinstated by the vacating carrier to the extent such carrier vacates another flight, which operates plus or minus three hours of the flight to be reinstated;*

(c) Any schedule changes resulting pursuant to the agreement herein approved shall be reported to the Board within 15 days after the end of each month in accordance with the format of Appendix A¹¹; copies of such reports shall be provided to all carriers requesting them;

3. Within 28 days hereafter, each carrier shall file with the Board's Docket Section, and shall provide to each carrier requesting one, a report containing the following additional data for the Chicago-London market:

a. Seats operated in 1972/1973 (November through April).

b. Passengers carried in 1972/1973.

c. Forecast passengers in 1973/1974.

d. Projected seats in 1973/1974.

e. Equipment type to be operated in the market.

f. Calculations in developing fuel shortage for this market.

¹⁰Such reports will enable the Board to analyze such schedule change(s) to insure that freed capacity is not being unnecessarily shifted to non-agreement markets.

¹¹In addition, TWA shall separately file with the Board's Docket Section a report stating, on a system-wide basis, average seat miles operated per gallon of fuel used, by type of equipment; and shall maintain records, subject to inspection by the Board, or by such other persons as the Board may authorize, detailing the fuel used each month, throughout its system on a city-pair and flight-by-flight basis (including charter operations). These requirements previously were imposed upon TWA in Order 73-10-110, supra, as amended by Order 73-12-32, supra.

g. 1972 fuel use by month for the system of each carrier.

h. 1972 fuel use by month in the agreement market.

4. Pursuant to section 416 of the Act, TWA be and it hereby is relieved from the provisions of section 405(b) of the Act, and from all regulations enacted in pursuance thereof, to the extent necessary to permit the implementation of the subject modifications without 10 days prior notice to the Postmaster General;

5. The request of the applicants that the Board waive the recent amendment to the Board's procedural Regulation PR-138, which would otherwise permit

21 days for answers to this application, be and it hereby is granted;

6. Board action on Agreement CAB 25109 be and it hereby is deferred; and

7. Copies of this order shall be served on the Departments of Defense, Justice and Transportation; the U.S. Postal Service; Department of Aviation, City of Chicago; NACA; and all supplemental air carriers.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

APPENDIX A

| Type of equipment | | | | |
|--|----------------------|----------------------|--------------------|--------------------|
| 2-Engine | 3-Engine narrow body | 4-Engine narrow body | 3-Engine wide body | 4-Engine wide body |
| CAPACITY MARKET(S) | | | | |
| Miles scheduled weekly in preceding general schedule filed with C.A.B. _____ | | | | |
| Changes contained in this general schedule _____ | | | | |
| Miles scheduled weekly in this general schedule _____ | | | | |
| NON-CAPACITY MARKET(S) | | | | |
| Miles scheduled weekly in preceding general schedule filed with C.A.B. _____ | | | | |
| Changes contained in this general schedule _____ | | | | |
| Miles scheduled weekly in this general schedule _____ | | | | |

[FR Doc.74-909 Filed 1-11-74; 8:45 am]

[Docket No. 25990; Order 74-1-41]

FRONTIER AIRLINES, INC. AND UNITED AIR LINES, INC.

Order Provisionally Approving Agreement

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 4th day of January, 1974.

On October 12, 1973, the Energy Policy Office adopted regulations, pursuant to the Economic Stabilization Act of 1970, as amended by Pub. L. 93-28, April 30, 1973, establishing a mandatory fuel allocation program that imposes controls on "middle distillate fuels," including airline turbine fuel.¹ On the same day, the Board issued Order 73-10-50, which authorized discussions to consider adjustment of schedules to the extent necessary to deal with the developing fuel emergency. Subsequently, on December 27, 1973, the Federal Energy Office (FEO) announced that the nation's trunkline carriers (including United) would be allocated 95 percent of their 1972 fuel levels, and the regional carriers (including Frontier) would receive 100 percent of their 1972 levels.²

Pursuant to Order 73-10-50, discussions were held in Washington, D.C. on November 13, 1973 and an agreement was reached between Frontier Airlines, Inc.

¹EPO Reg. 1, 38 FR 28660.

²FEO, Mandatory Petroleum Allocation Regulations, Subpart G, §200.53(1)(4). These fuel allocation levels will result in the trunkline carriers receiving 15% less fuel than their 1974 planned levels of consumption would have required and the regional carriers receiving approximately 10% less.

(Frontier) and United Air Lines, Inc. (United) to limit frequency in the Denver-Las Vegas and Denver-Omaha markets.

By the terms, the agreement will be implemented, subject to prior Board approval, on January 7, 1974 and will terminate on April 28, 1974. In the event of a cessation or curtailment of service by either party resulting from a labor dispute or other cause beyond the control of that party, the limitations of the agreement will be suspended during the period of such cessation or curtailment.

The agreement provides that in the Denver-Las Vegas market Frontier will eliminate one round-trip frequency on Tuesday and Wednesday and United will eliminate one of its round-trip frequencies on Saturday.³ In the Denver-Omaha market, the agreement provides that United will eliminate six round-trip frequencies per week and Frontier will eliminate three round-trip frequencies per week.⁴

In accordance with similar agreements of this nature, the carriers have agreed that each may operate extra sections for operational reasons or unusual demand.⁵

³According to the November 1, 1973 Official Airline Guide, United operates 21 weekly round-trip frequencies (7 wide-body) and Frontier operates 27½ weekly round-trip frequencies in the Denver-Las Vegas market.

⁴In the Denver-Omaha market, the weekly round-trip frequencies for United and Frontier are 34 and 16½, respectively.

⁵Such extra sections cannot be published, advertised or otherwise held out to the public.

and larger aircraft may be substituted for smaller aircraft on an irregular and infrequent basis in order to meet unusual operational requirements.

Comments in opposition to the agreement have been filed by the Department of Justice (DOJ) and the Las Vegas parties.⁶ It is DOJ's contention that the agreement is repugnant to established anti-trust principles and that the applicants have not presented a substantial justification for their claim that the agreement is required by a serious transportation need and will secure important public benefits sufficient to outweigh these anti-trust principles. In addition, DOJ contends that the carriers could have unilaterally eliminated service without further fear that such eliminations would cause a dilution of their market share. In light of these considerations, DOJ claims that the Board cannot legally approve the agreement under the standards of section 412 of the Federal Aviation Act of 1958, as amended. It is the contention of the Las Vegas parties that the present agreement affecting the Denver-Las Vegas market is not justified under Board policy, even in consideration of the fuel shortages, since the overall load factor for the entire week is already at or above the 72% ceiling established by the Board in Order 73-11-50.

In support of their request, the carriers state that the agreement provides for service reductions which are compelled by the shortage of fuel; that significant fuel savings will result,⁷ and that, under the established maximum scheduled frequency levels, the carriers are assuring the traveling public that such schedule adjustments will not result in inadequacies of service.

The air transportation industry is being faced with a severe shortage of fuel. In order to meet the present cutback levels, the carriers must make fuel-saving adjustments to their schedules. It is the concern of the Board that those cutbacks necessitated by the fuel shortage be made in a manner that provides the best service possible under these critical circumstances. It is the Board's belief that the best means of protecting the public interest is for the carriers to negotiate mutual reductions in capacity which can be properly analyzed and monitored by the Board. As the Board stated in Order 73-10-110, mutual ca-

capacity reduction agreements provide a vehicle that will help the Board to insure that those cutbacks stemming from the fuel shortage are made in a rational manner and that available capacity is operated under schedules that provide the public with the most convenient service practicable under the circumstances.

Based on the foregoing considerations, it is concluded that the agreement should be approved subject to certain conditions. The service proposed in the agreement reasonably satisfies the needs of the traveling public as well as saving substantial amounts of fuel.⁸ This conclusion is predicated on the information received by the applicants concerning which flights will be eliminated upon the initial implementation of the agreement. Under the proposed initial schedule deletions, the Denver-Las Vegas market will continue to receive adequate service throughout the day.⁹ In the Denver-Omaha market, only on three days of the week will both carriers be deleting one round-trip frequency. However, even on those days, the market will continue to receive five daily, non-stop flights eastbound and six westbound with convenient schedule spreads throughout the day. Additionally, it is noted with approval that this agreement satisfies the minimum guideline established by the Board in Order 73-11-50. The average load factors for the corresponding January-April 1973 period in the Denver-Omaha market were below the 72 percent figure and, as noted previously, the carriers will continue to operate at least one daily, non-stop round-trip frequency in each market. Under these circumstances, the traveling public will continue to receive a reasonable frequency of service and the carriers will be a step closer toward reaching their allocated fuel levels.¹⁰

In response to the comments filed by the DOP, the Board recognizes its responsibility to consider pro-competitive factors in its decisions. However, as stated in Order 73-7-147, when an agreement is challenged as contrary to anti-trust principles, the Board is called upon to judge whether pro-competition objectives are outweighed by a serious transportation need, or by the need to secure important public benefits.¹¹ In light of the fuel shortage and the necessity of cutting back on schedules, it is the Board's view that mutual agreements to limit capacity, filed with the Board for prior approval, provide the vehicle to insure that capacity reductions are made in a rational manner and that available

that provide the public with the most capacity is operated under schedules convenient service practicable under the circumstances. It is our conclusion that these agreements both fulfill a serious transportation need and secure important public benefits sufficient to outweigh the anti-trust objections, and that the Board is acting within its power under section 412 of the Act in approving this agreement.

The 72 percent load factor guideline established by the Board in Order 73-11-50 pertains to average monthly load factors, not to a particular day or flight. In this light, we have analyzed the transcript filed by the applicants in reference to the agreement's discussions and note that from January-April, 1973 when Frontier served the market with only 3 daily non-stops (in addition, United operated a 727 instead of its present DC-10) the average load factors were below the 72 percent level.¹² We, therefore, do not feel that the comments filed by the Las Vegas parties justify disapproval of the agreement. However, we will require the parties to file a report concerning load factors (in accordance with the format of Order 72-4-63) in order to insure that the Denver-Las Vegas market is continuing to receive a reasonable level of service under these circumstances.

In response to the comments filed by ALPA, we have considered the implications of the proposed agreement on the airlines' employees. For those reasons detailed at length in Order 73-12-32, which are equally applicable here, we are unable to conclude that the public interest requires the imposition of any labor protective conditions.¹³

It is also further concluded that enforcement of section 405(b) of the Act, requiring 10 days' notice of schedule changes to the Postmaster General, would be an undue burden upon the carrier applicants by reason of the limited extent of, and unusual circumstances affecting their operations and is not in the public interest, particularly in light of the reduced fuel supplies and the further reductions that are forthcoming. Pursuant to section 416 of the Act, United and Frontier will be granted an exemption from section 405(b), and from any regulations made pursuant thereto, to permit implementation of the subject schedule changes without 10 days' prior notice to the Postmaster General.¹⁴

In order to effectively monitor the implementation of this agreement jurisdic-

⁶ In addition a motion for leave to file an otherwise unauthorized document has been filed by the Air Line Pilots Association, International (ALPA). The comments included with this motion were timely filed with respect to this agreement and will, therefore, be accepted as an answer to their application. In its comments, ALPA requests that, if the Board approves this agreement, its approval should be conditioned on the imposition of labor protective conditions. ALPA asserts that the carriers' mutual agreement to cut back service has expedited a reduction in their labor forces as well as creating the threat of adverse industrial consequences.

⁷ The carriers estimate total fuel savings of approximately 516,184 gallons during the term of the agreement (321,072 gallons for United; and 195,112 gallons for Frontier).

⁸ *Id.*

⁹ Only on Tuesdays, Wednesdays and Saturdays will one round-trip frequency be deleted. However, there will still be six other non-stop frequencies available midweek and four on Saturdays (including United's wide-body DC-10).

¹⁰ As we have noted previously, the Board will not tolerate the transfer of freed capacity to non-agreement markets. See Orders 73-10-110, 73-11-147, and 73-12-109.

¹¹ See, *Local Cartage Agreement Case*, 15 C.A.B. 850, 852-53 (1952).

¹² During the period, January 1, 1973 to May 1, 1973, the average load factor for both carriers in this market was approximately 67.8 percent.

¹³ In addition, See Order 73-7-147 at 14, cited in Order 73-10-110 at 7, footnote 10.

¹⁴ Likewise, it does not appear that our action here will significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act since the carriers will have to reduce their schedules in any event because of the fuel shortage. Our action herein merely helps to ensure that such reductions will be accomplished in a rational manner.

tion will be retained, pursuant to section 412 of the Act, for the purpose of modifying, amending or revoking the approval of the agreement at any future date. Furthermore, each carrier will be required to report within 7 days after the end of each month any schedule changes in the Denver-St. Louis and Albuquerque-Las Vegas markets during the term of the agreement. (See Appendix A.)¹⁵

Accordingly, it is ordered, That:

1. Agreement CAB 24114 be and it hereby is approved pursuant to section 412 of the Act, subject to the following conditions:

(a) Jurisdiction shall be retained in order to modify, amend or revoke the approval at any time, or take whatever other action may be deemed appropriate;

(b) Any schedule changes resulting pursuant to the agreement herein approved shall be reported to the Board within 7 days after the end of each month in accordance with the format of Appendix A;¹⁶

(c) Within 15 days after the end of each calendar month, each applicant shall submit to the Docket Section three copies of a report in the form required by Order 72-4-63, stating for each flight flown in the Denver-Las Vegas market (including extra sections), by flight number, departure time and aircraft type, the revenue passengers carried, number of seats flown, and load factor for each day of the week and for the month; and as an attachment to the report, each applicant shall report the number of times an aircraft being operated in this market departed with 95 percent or more of its seats filled;¹⁷

(d) A copy of these reports shall be served upon the airport operator(s) in the cities of Denver and Las Vegas.

2. Within 28 days after service of this order, each carrier shall file with the Board's Docket Section, and shall provide to each carrier requesting one, a report containing the following additional data for the Denver-Omaha and Denver-Las Vegas markets:

a. Seats operated in 1972/1973 (November through April).

b. Passengers carried in 1972/1973.

c. Forecast passengers in 1973/1974.

d. Projected seats in 1973/1974.

e. Equipment type to be operated in each market.

¹⁵ Such reports will enable the Board to analyze such schedule change(s) to insure that freed capacity is not being unnecessarily shifted to non-agreement markets.

¹⁶ Copies of any scheduled changes as well as the carriers' monthly fuel reports as required by Orders 73-10-110 and 73-12-88 shall be provided to all carriers requesting them.

¹⁷ For the purpose of the 95 percent report, the applicants shall take into account both revenue and positive space non-revenue passengers. Such reports shall also include flight numbers. This report will enable the Board to analyze the carriers' load factors and schedules to insure that the market is receiving a reasonable level of service under these circumstances.

f. Calculations in developing fuel savings in these markets.

g. 1972 fuel use by month for the system of each carrier.

h. 1972 fuel use by month in the agreement markets.

3. Pursuant to section 416 of the Act, United and Frontier be and they hereby are relieved from the provisions of section 405(b) of the Act, and from all regulations enacted in pursuance thereof, to the extent necessary to permit the implementation of the subject modifications without 10 days' prior notice to the Postmaster General;

4. Copies of this order shall be served on the Departments of Defense, Justice and Transportation; the U.S. Postal Service; the Cities of Denver, Omaha and Las Vegas, the Las Vegas Parties; ALPA; and all certificated route and supplemental air carriers.

5. To the extent not granted herein, all outstanding 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.

APPENDIX A

| Type of equipment | | | | |
|--|----------------------|----------------------|--------------------|--------------------|
| 2-Engine | 3-Engine narrow body | 4-Engine narrow body | 3-Engine wide body | 4-Engine wide body |
| CAPACITY MARKET(s) | | | | |
| Miles scheduled weekly in preceding general schedule filed with C.A.B. _____ | | | | |
| Changes contained in this general schedule _____ | | | | |
| Miles scheduled weekly in this general schedule _____ | | | | |
| NON CAPACITY MARKET(s) | | | | |
| Miles scheduled weekly in preceding general schedule filed with C.A.B. _____ | | | | |
| Changes contained in this general schedule _____ | | | | |
| Miles scheduled weekly in this general schedule _____ | | | | |

[FR Doc.74-906 Filed 1-11-74; 8:45 am]

[Dockets 25581 and 26078]

JUGOSLOVENSKI AEROTRANSPORT
Renewal and Amendment of Foreign Air Carrier Permit
NOTICE OF HEARING

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on January 22, 1974, at 10:00 a.m. (local time) in Room 911, Universal Building, 1825 Connecticut Ave. NW., Washington, D.C., before the undersigned Administrative Law Judge.

Dated at Washington, D.C., January 8, 1974.

[SEAL] WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc.74-994 Filed 1-11-74; 8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

AEROSOL SPRAY PRODUCTS

Notice of Public Hearing

Notice is given that a public hearing will be held on Wednesday, February 20, 1974, at 10 a.m. in the hearing room, Consumer Product Safety Commission, 6th floor, 1750 K Street NW., Washington, D.C., to discuss a petition submitted by the Center for Science in the Public Interest requesting the Commission to promulgate regulations for the safety

and packaging of all unregulated aerosol spray products, especially those used in the home. The hearing will be held pursuant to section 27(a) of the Consumer Product Safety Act (Public Law 92-573, sec. 27(a), 86 Stat. 1227; 15 U.S.C. 2076(a)).

The Commission received the petition November 12, 1973, along with a booklet published by the petitioner and entitled "How Aerosol Sprays Can Affect Your Safety and Health" which is cited in support of the request.

The petition is set forth below. The petition and the booklet are available for inspection at the Office of the Secretary, CPSC, 10th floor, 1750 K Street NW., Washington, D.C.

Among the reasons given in support of the petition are that many of the active ingredients in aerosol cans are dangerous; that the presence of large numbers of aerosol products in households leads to carelessness in reading of labels, storing, and application of aerosolized products; that the temptation to sniff aromatic chemical products, especially among the young, has become a serious problem; and that pressurized containers can explode.

The petitioner requests that an immediate investigation of home-use practices of aerosol products be instituted, emphasizing the number and amounts of toxic substances used, the safety of aerosol containers, the usefulness and accuracy of aerosol spray labeling, and the susceptibility by consumers to misuse

aerosol products. In addition, the petitioner recommends that aerosol spray products not be used in the home and that a public education program on the dangers of aerosol sprays used in the home be conducted by the Commission. The petitioner requests that all toxic and unsafe aerosol products be banned and removed from store shelves. Finally, the petitioner requests that manufacturers be required to test ingredients used in all aerosol spray products for carcinogenic, mutagenic, and teratogenic effects prior to marketing the product.

The hearing is to be held to help the Commission determine whether or not the petition or any part of the petition should be granted. Information, views, and arguments relevant to the material covered in the petition are sought because of the breadth of the subject matter and the relief requested. Views of individual consumers are particularly sought.

Persons interested in attending the hearing are requested to write to Mr. Don Early, Office of Standards Coordination and Appraisal, Consumer Product Safety Commission, Washington, D.C. 20207, or call (301) 496-7197. Those persons who wish to make a formal presentation are requested to submit a copy or outline of their presentation and the amount of time requested for such presentation. Persons unable to attend the hearing who wish to present written comments for the Commission's consideration are invited to do so. All comments should be received by close of business February 13, 1974. The hearing will be a legislative-type proceeding conducted by a member or representative of the Commission and will be transcribed by a stenographer.

In the event the space available for the hearing will not accommodate everyone wishing to attend, attendance will be determined on the basis of when the request for attendance is received.

Dated: January 8, 1974.

JOLYON E. DAVIS,
Acting Secretary, Consumer
Product Safety Commission.

The petition reads as follows:

Petition To Promulgate Rules and Regulations for Safety and Packaging of All Unregulated Aerosol Spray Products Especially Those Used in the Home

CHAIRMAN RICHARD O. SIMPSON,
Consumer Product Safety Commission,
7315 Wisconsin Avenue,
Bethesda, MD 20207.

NOVEMBER 8, 1973.

DEAR SIR: There is a growing concern about the widespread use and misuse of aerosol spray products, especially those used in and around the home environment. Over two and a half billion units of these aerosolized products are produced each year, or about 45 per household (in 1972). New product lines are dreamed up by the aerosol spray industry at a rate of one a week. Presently about 95% of Americans come in contact with an aerosol spray product in their homes daily, and most are quite unaware of health and safety dangers of these materials and their containers. We recognize that one of the first official acts of your Commission was

to suspend sales of one of these product lines. We urge you to extend your investigation to all household aerosol spray products immediately.

The reasons for such an investigation and regulation of aerosol spray products are numerous and discussed in detail in the accompanying report: "How Aerosol Sprays Can Affect Your Safety and Health." We will list some of them below:

(1) *Health Reasons*—(a) *Toxic Contents and Hazards of Application of Aerosol Spray Cans.* Many of the active ingredients in aerosol cans are quite dangerous (See Appendix 3 in Report). Though these materials are often mentioned in small lettering in a label warning on the can, the fact that the product is used makes such warning virtually meaningless. For instance, cautions against spraying near the face are meaningless when mist from the aerosol can permeates the atmosphere of the user. Sprays used as air fresheners around baby cribs contain highly toxic carbolic acid, which will burn human tissue. The so-called "inert" ingredients, such as common aerosol Freon propellants and the aerosol solvent 1,1,1-trichloroethane, have been known to cause death to sniffers and health complications to others who did not misuse the aerosol spray.

Ingredients are diluted in the air and often do not appear to harm the average user, but can result in serious injury to certain susceptible classes of people such as asthmatics and heart patients. Some common uses endanger the average person when excessive amounts are applied. Sprays reach the nose and delicate parts of the body causing irritation and inflammation. Little is known about the long-term effects of inhaling and ingesting many of these products. Finely dispersed mists in the air easily penetrate deep into the respiratory tract causing injury; they can be dispersed from the lungs to other organs via the blood stream.

(b) *Familiarity Breeds Contempt.* The sheer presence of large numbers of aerosol containers in any given household will cause the average person to become careless about reading labels, storing in safe places, and applying the product. The variety of chemicals in these different products means the probability is quite high that two or more of them might be used at the same time. The chemical clouds can mix and synergistic effects result. No one can predict the products of such chemical reactions in the home atmosphere. Some very exotic products could form such as highly toxic dichloroacetylene from the reaction of caustic oven cleaners with common aerosol product solvents, or the formation of corrosive and poisonous gases through decomposition of Freons in the presence of a heated surface.

(c) *Deliberate Misuse.* The temptation to misuse chemicals is as old as man. That temptation to sniff aromatic chemical products, especially among young people, has become a serious problem in recent years in America. For this reason, the sales of certain forms of airplane glue has quite wisely been curtailed. Yet, although hundreds of aerosol sniffers have died from misuse of these household products, the growing problem has been virtually ignored.

Overuse of aerosol products in the home can create pollution problems. These problems are exacerbated by the closed systems of modern homes where interior heated and cooled air is recirculated and not changed often.

(2) *Safety Reasons*—(a) *Container Explosions:*

Pressurized containers of gas can explode. Serious injury and death have been reported in a number of cases due to deliberate or accidental heating of aerosol containers. Sometimes accidental fires might be the cause, at other times the inadvertent inclusion of

aerosol containers within trash or garbage which is burnt in backyard fires or in home incinerators.

(b) *Proximity to Children.* The average small child is intensely curious and enjoys making playthings out of unusual items. Aerosol cans with their multicolored caps and sides and propellants which hiss and fizz can be enticing to youngsters. Child-proofing, like explosion-proofing, is much touted by the container industry, but little has been done.

(c) *Unsolicited Mailing of Aerosol Sprays.* A dangerous technique now employed by household products manufacturers is to launch major advertising campaigns by sending free samples of items in the mail. Proctor and Gamble recently launched its "Sure Deodorant" product by sending free samples to millions of households throughout the land. Parents may be careless about free items coming in the mail and a new interesting "plaything" may reach the hands of children.

(d) *Lack of Proper Handling.* Not every consumer has the same measure of common sense and so not all may be able to operate aerosol spray containers properly. One young boy wanted to beef up a Christmas decorating product and so he heated it on a stove and was seriously injured. A woman injured the baby she was holding while applying paint remover. The list is extensive. Correct aerosol practices become more difficult because some of the items simply can't be applied as directed. How can one apply hair spray while avoiding the face, or feminine deodorant spray while holding the product two feet away from the body?

(3) *Economic and Environmental Impact Reasons*—(a) *Corrosion to Home Appliances.* Few aerosol users are aware that propellants can form highly corrosive hydrofluoric and hydrochloric acids. Heating filaments as well as most unprotected metals and other substances will be decomposed in the presence of these strong acids. Lennox Furnace Co. does not guarantee their furnaces in buildings where chlorine and fluorine products are used. Such places as beauty parlors have serious corrosion problems due to the "inert" ingredients in their hair sprays.

(b) *Environmental Damage.* Pressurized containers require heavy metal materials in place of cheaper substances, and thus take an added toll in depleting natural resources and energy supplies. The disposal of aerosol containers are a special problem and a significant source of incinerator deterioration.

For the reasons presented we petition the Consumer Product Safety Commission to launch an immediate investigation of home use practices of aerosol spray products. Problem areas which must be addressed include:

The number and amounts of toxic substances used;

The safety of aerosol containers;

The usefulness and accuracy of aerosol spray labeling;

The susceptibility by consumers to misuse; and

The manufacturers' honesty in promotion of products.

We strongly recommend that aerosol spray products not be used in the home. Furthermore, we recommend that a public education program on the dangers of aerosol sprays used in the home should be launched by the Consumer Product Safety Commission.

All toxic and unsafe aerosol products should be banned and removed from store shelves. Ingredients used in all aerosol spray products should be tested for carcinogenic, mutagenic and teratogenic effects before marketing, and at the manufacturers' expense.

Proper study and consequent delays might preclude other actions to regulate aerosols. In such a case child-proof caps and explosion-proof containers are presently available interim safeguards which should be required.

We hope you will give this matter your urgent consideration.

Sincerely yours,

ALBERT J. FRITSCH, Ph. D.
BARBARA HOGAN, M.S.

[FR Doc. 74-970 Filed 1-11-74; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 682]

COMMON CARRIER SERVICES INFORMATION¹

Domestic Public Radio Services Applications Accepted for Filing²

JANUARY 7, 1974.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to §§ 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

¹ All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's Rules, regulations and other requirements.

² The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the Rules).

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20660-C2-P-(2)-74, AAA Answerphone, Inc.-Jackson (KKV692), Loc. #1: Deposit Guaranty Bank Bldg., Corner Capitol & Lamar Streets, Jackson, Mississippi. C.P. to change antenna system operating on 454.300 & 454.350 MHz.

20745-C2-P-74, Electrotech Corporation d/b/a Mount Vernon Radio Telephone Company (NEW), Eastern city limits at reservoir, Mt. Vernon, Ohio. C.P. for a new 2-way station to operate on base frequency 454.025 MHz.

20746-C2-P-74, Mid-Penn Telephone Corporation (NEW), 3000' North U.S. Highway #19, 0.75 Mile West of Meadville, Pennsylvania. C.P. for a new 1-way-signaling station to operate on 152.84 MHz.

20747-C2-P-(3)-74, ATS Mobile Telephone, Inc. (KBM512), Loc. #2: Woodman Tower Building, 1700 Farnam Street, Omaha, Nebraska. C.P. to add at Loc. #2 additional base channels to operate on 152.12, 454.100 and 454.150 MHz.

20748-C2-P-74, Answer, Inc., of San Antonio (KRS652), Pecan & Soledad, San Antonio, Texas. C.P. to change antenna location to KWEX-TV, 411 E. Durango, San Antonio, Texas. Authorized 1-way-signaling frequency: 158.70 MHz.

20749-C2-P-74, Buckeye Communications Company (KLF572), 900 West Market Street, Akron, Ohio. C.P. to add additional base frequency to operate on 454.025 MHz.

20750-C2-P-(3)-74, Auto-Phone Company (KMM626), C.P. for additional base, repeater & control facilities. Loc. #1: 1.5 miles South of Sunset Hill, SW of Forbestown, California add 454.175 MHz (Base) & 75.62 MHz (Repeater). Location #2: 1538 18th Street, Oroville, California add 72.24 MHz (Control).

20762-C2-P-(2)-74, Radio Broadcasting Company (KUC898), C.P. to add repeater facilities 2128 MHz at its existing site 28 West State Street, Trenton, New Jersey, and add control facilities to operate on 2178 MHz at a new site identified as Loc. #2: 3600 Conshohocken Avenue, Philadelphia, Pennsylvania.

Major Amendment

20305-C2-P-74, RCC of Virginia, Inc. (KFG938). Amend to add an additional channel on 152.12 MHz at Location #2. All other particulars are to remain as reported on Public Notice No. 668 dated October 1, 1973.

Correction

2544-C2-P-73, Owen W. Hand (NEW). On Public Notice No. 675 dated November 19, 1973 listed under Major Amendments the base frequency should have read 152.12 MHz NOT 152.15 MHz. The Application was granted on Public Notice No. 681-A dated January 2, 1974.

RURAL RADIO SERVICE

60132-C6-P-74, The Mountain States Telephone and Telegraph Company (KPZ94), U.S. Air Force, Waterdog Recreation Area, 7 Miles SW. of Roosevelt, Arizona. C.P. to add an additional frequency 158.01 MHz at its rural subscriber station.

60133-C6-P-74, Malheur Home Telephone Company (KOS56), 5.4 Miles West of the city limits of Ontario, Oregon. C.P. to replace transmitter operating on 152.69 MHz.

60134-C6-P-74, Same as above (KOS61), 0.25 Mile East of Ironsides, Oregon. C.P. to correction coordinates to read Lat. 44°-19'20" N., Long. 117°56'11" W.; change antenna system and replace transmitter operating on 157.95 MHz.

60135-C6-P/L-74, The Mountain States Telephone and Telegraph Company (NEW).

C.P. for a new rural subscriber station to operate on 158.07 MHz. Subscriber & Location: Rosebud Coal Company, 3.5 Miles NE. of Hanna, Wyoming.

60136-C6-P-74, Pacific Northwest Bell Telephone Company (NEW). C.P. for a new rural subscriber station to operate on 157.86 MHz. Subscriber & Location: Bald Mountain Mine, 5.5 Miles NW. of Sumpter, Oregon.

60138-C6-P-74, The Mountain States Telephone and Telegraph Company (NEW). C.P. for a new rural subscriber station to operate on 158.07 MHz. Subscriber & Location: TL Bar Ranch, 19.8 Miles North of Wendover, Utah.

POINT-TO-POINT MICROWAVE RADIO SERVICE

2457-C1-ML-74, Illinois Bell Telephone Company (KVU31), Collinsville, Illinois. Mod. of License to change polarization from H to V on freqs. 10855, 11015 MHz toward St. Louis, Mo. on azimuth 258°29'.

2458-C1-ML-74, Southwestern Bell Telephone Company (KZI35), St. Louis, Missouri. Mod. of License to change polarization from H to V on freqs. 11265, 11505 MHz toward Collinsville on azimuth 78°20'.

2459-C1-P-74, Southern Bell Telephone and Telegraph Company (New), 1600 Clifton Road NE., Center for Disease Control, Atlanta, Georgia. Lat. 33°47'55" N., Long. 84°19'32" W. C.P. for a new station on freq. 11565H MHz toward Atlanta, Ga. (KIB25), on azimuth 229°47'.

2460-C1-P-74, Same (KIB25), 51 Ivy Street NE., Atlanta, Georgia. Lat. 33°45'21" N., Long. 84°23'10" W. C.P. to add receiver and receive only antenna on freqs. 3910V, 4150V, 5974.8H, 6034.2H, 6093.5H, 6123.1V, 6152.8H MHz toward Rockdale, Ga.; freqs. 10955V, 1115V MHz toward Atlanta, Ga.; freqs. 6004.5V, 6034.2H, 6152.8H MHz toward Marietta, Ga.; freqs. 5974.8V, 6093.5V, 6152.8V MHz toward Palmetto, Ga.; freqs. 5974.8V, 6034.2V, 6093.5V, 6152.8V MHz toward Lovejoy, Ga.; freqs. 10995H, 11155H MHz toward Stone Mountain, Ga., and freqs. 10715H, 11035H MHz toward Decatur, Ga.

2461-C1-P-74, The Western Union Telegraph Company (KEA25), 60 Hudson St., New York, New York. Lat. 40°43'03" N., Long. 74°00'33" W. C.P. to change antenna system on freq. 6404.8V MHz toward Mt. Freedom, N.J., on azimuth 284°18'.

2462-C1-P-74, Same (KEM25), Mt. Freedom, 3.5 Miles West of Morristown, New Jersey. Lat. 40°49'20" N., Long. 74°33'24" W. C.P. to change antenna system on freq. 6123.1V MHz toward New York, N.Y., on azimuth 103°57'; freq. 6152.8V MHz toward Hopewell, N.J., on azimuth 205°26'.

2463-C1-P-74, Same (KEM24), 3.0 Miles NW. of Hopewell, New Jersey. Lat. 40°24'56" N., Long. 74°48'38" W. C.P. to change antenna system on freq. 6375.2V MHz toward Mt. Freedom, N.J., on azimuth 25°16'; freq. 6404.8V MHz toward Mt. Laurel, N.J., on azimuth 187°40'.

2464-C1-P-74, Same (KEA70), Mt. Laurel, 12.5 Miles East of Camden, New Jersey. Lat. 39°56'03" N., Long. 74°53'40" W. C.P. to change antenna system on freq. 6123.1V MHz toward Hopewell, N.J., on azimuth 07°37'; freq. 6152.8V MHz toward Philadelphia, Pa., on azimuth 274°05'.

2465-C1-P-74, Same (KGN31), Ritz Tower Bldg., 13th & Chancellor Streets, Philadelphia, Pennsylvania. Lat. 39°56'55" N., Long. 75°09'46" W. C.P. to change antenna system on freq. 6375.2V MHz toward Mt. Laurel, N.J., on azimuth 93°23'; freqs. 6315.9H, 6256.5H, 6375.2H MHz toward Pittsgrove, N.J., on azimuth 184°12'.

2466-C1-P-74, The Western Union Telegraph Company (KEM26), 2.5 Miles NE. of Pittsgrove, New Jersey. Lat. 39°38'09" N., Long. 75°11'33" W. C.P. to change antenna sys-

- tem on freqs. 6093.5H toward Philadelphia, Pa.; change polarization from V to H on freqs. 6034.2H, 6152.8H MHz toward Philadelphia, Pa., on azimuth 04°11'; freq. 6123.1V MHz toward Elkton, Md., on azimuth 275°00'.
- 2467-C1-P-74, Same (KGN32), 2.5 Miles West of Aberdeen, Maryland. Lat. 39°30'54" N., Long. 76°14'26" W. C.P. to change antenna system on freq. 6034.2V MHz toward Elkton, Md., on azimuth 60°36'; freq. 6123.1V MHz toward Baltimore, Md., on azimuth 232°09'.
- 2468-C1-P-74, Same (KGN33), 4.5 Miles NW. of Elkton, Maryland. Lat. 39°40'45" N., Long. 75°51'44" W. C.P. to change antenna system on freq. 6286.2V MHz toward Pittsgrove, N.J., on azimuth 94°34'; freq. 6375.2V MHz toward Aberdeen, Md., on azimuth 240°50'.
- 2469-C1-P-74, Same (KGN30), 5 East Redwood Street, Baltimore, Maryland. Lat. 39°17'19" N., Long. 76°36'52" W. C.P. to change antenna system on freq. 6286.2V MHz toward Aberdeen, Md., on azimuth 51°55'; freq. 6375.2H MHz toward Severn, Md., on azimuth 198°20'.
- 2470-C1-P-74, Same (KGB33), 1.0 Mile SE. of Severn, Maryland. Lat. 39°07'50" N., Long. 76°40'54" W. C.P. to change antenna system on freq. 6034.2H MHz toward Baltimore, Md., on azimuth 18°17'; freq. 6152.8V MHz toward Tenley, D.C., on azimuth 240°00'.
- 2471-C1-P-74, Same (KGB34), 41st St. and Wisconsin Ave., Tenley, District of Columbia. Lat. 38°57'01" N., Long. 77°04'48" W. C.P. to change antenna system on freq. 6256.5V MHz toward Severn, Md., on azimuth 59°45'.
- 2472-C1-P/L-74, South Central Bell Telephone Company (New), 5220 Essen Lane, Baton Rouge, Louisiana. Lat. 30°24'05" N., Long. 91°06'22" W. C.P. and License for a new station on freq. 6336.7V MHz toward (KLT46) Baton Rouge, La., on azimuth 305°17'.
- 2473-C1-P-74, Same (KIU60), 215 Church Street, Nashville, Tennessee. Lat. 36°09'51" N., Long. 86°46'38" W. C.P. to add freq. 3990H MHz toward Lebanon, Tenn., on azimuth 92°27'.
- 2474-C1-P-74, Same (KRW74), Approximately 7 Miles SW. of Lebanon, Tennessee. Lat. 36°09'00" N., Long. 86°23'13" W. C.P. to add freq. 4090V MHz toward Nashville, Tenn., on azimuth 272°41'; freq. 3950V MHz toward Short Mtn., Tenn., on azimuth 130°09'.
- POINT TO POINT MICROWAVE RADIO SERVICE
- 2475-C1-P-74, South Central Bell Telephone Company (KRW75), Short Mountain, approx. 6 Miles NE of Woodbury, Tennessee. Lat. 35°51'52" N., Long. 85°58'20" W. C.P. to add freq. 3990V MHz toward DeRossett, Tenn., on azimuth 80°37'; freq. 4050H MHz toward Lebanon, Tenn., on azimuth 310°24'.
- 2476-C1-P-74, Same (KRW76), 1.2 Miles NE of DeRossett, Tennessee. Lat. 35°57'14" N., Long. 85°17'33" W. C.P. to add freq. 3950V MHz toward Millstone Gap, Tenn., on azimuth 92°26'; freq. 4090H MHz toward Short Mountain, Tenn., on azimuth 261°01'.
- 2477-C1-P-74, Same (KRW77), Millstone Gap, 4.0 Miles North of Ozone, Tennessee. Lat. 35°56'10" N., Long. 84°48'23" W. C.P. to add freq. 3990V MHz toward Lenoir City, Tenn., on azimuth 103°18'; freq. 4050H MHz toward DeRossett, Tenn., on azimuth 272°43'.
- 2478-C1-P-74, Same (KRW78), Approximately 5 Miles NE of Lenoir City, Tennessee. Lat. 35°48'49" N., Long. 84°10'38" W. C.P. to add freq. 3750V MHz toward Knoxville, Tenn., on azimuth 52°46'; freq. 4090H MHz toward Millstone Gap, Tenn., on azimuth 283°38'.
- 2479-C1-P-74, Same (KIU47), 312 North Broadway, Knoxville, Tennessee. Lat. 35°58'12" N., Long. 83°55'25" W. C.P. to add freq. 3890H MHz toward Greentop, Tenn., on azimuth 127°14'; freq. 4050 MHz toward Lenoir City, Tenn., on azimuth 232°55'.
- 2480-C1-P-74, Same (KIU48), Greentop, Approx. 18 Miles SE of Knoxville, Tennessee. Lat. 35°48'41" N., Long. 83°40'04" W. C.P. to add freq. 3930H MHz toward Morristown, Tenn., on azimuth 37°08'; freq. 3930H MHz toward Knoxville, Tenn., on azimuth 307°23'.
- 2481-C1-P-74, Same (KIU46), Main and Daisy Streets, Morristown, Tennessee. Lat. 36°12'54" N., Long. 83°17'24" W. C.P. to add freqs. 3810H, 3890H, 4130H MHz toward Camp Creek Bald, Tenn., on azimuth 111°28'; freq. 3890H MHz toward Greentop, Tenn., on azimuth 217°22'.
- 2482-C1-P-74, Same (KJB44), Camp Creek Bald, Approx. 5 Miles SE of Camp Creek, Tennessee. Lat. 36°01'45" N., Long. 82°42'45" W. C.P. to add freq. 4150V MHz toward Johnson City, Tenn., on azimuth 45°07'; freq. 3830H MHz toward Asheville, N.C., on azimuth 163°46'; freqs. 3850H, 3930H MHz toward Morristown, Tenn., on azimuth 291°48'.
- 2483-C1-P-74, American Telephone and Telegraph Company (KPT98), 5.6 Miles WSW of Kelvin, Arizona. Lat. 33°04'10" N., Long. 111°03'13" W. C.P. to add freq. 4110V MHz toward Winkleman, Ariz., on azimuth 105°24'.
- 2484-C1-P-74, American Telephone and Telegraph Company (KPT97), 7.7 Miles East of Winkleman, Arizona. Lat. 32°58'22" N., Long. 110°38'24" W. C.P. to add freq. 4150H MHz toward Klondyke, Ariz., on azimuth 114°20'.
- 2485-C1-P-74, Same (KPT96), 8.1 Miles ESE. of Klondyke, Arizona. Lat. 32°48'11" N., Long. 110°11'51" W. C.P. to add freq. 4110H MHz toward Pima, Ariz., on azimuth 73°48'.
- 2486-C1-P-74, Same (KPT95), 2.3 Miles WSW. of Pima, Arizona. Lat. 32°53'04" N., Long. 109°51'49" W. C.P. to add freq. 4150H MHz toward Duncan, Ariz., on azimuth 100°36'.
- 2487-C1-P-74, Same (KPT94), 12.1 Miles WNW. of Duncan, Arizona. Lat. 32°47'36" N., Long. 109°17'42" W. C.P. to add freq. 4110H MHz toward White Signal, N. Mex., on azimuth 113°33'.
- 2488-C1-P-74, Same (KLT98), 8.3 Miles SW. of White Signal, New Mexico. Lat. 32°29'38" N., Long. 108°29'29" W. C.P. to correct coordinates and add freq. 4150V MHz toward Gage, N. Mex., on azimuth 118°22'.
- 2489-C1-P-74, Same (KLT97), 6.0 Miles NNW. of Gage, New Mexico. C.P. to change coordinates on Lat. 32°19'17" N., Long. 108°06'50" W. to Lat. 32°19'17" N., Long. 108°06'59" W. and add freq. 4110V MHz toward Deming, N. Mex., on azimuth 110°33'.
- 2490-C1-P-74, Same (KLT96), 12.1 Miles SE. of Deming, New Mexico. Lat. 32°09'19" N., Long. 107°35'56" W. C.P. to change coordinates and add freq. 4150V MHz toward Fairacres, N. Mex., on azimuth 64°54'.
- 2491-C1-P-74, Same (KPV22), 228 West Street, Phoenix, Arizona. Lat. 33°26'58" N., Long. 112°04'35" W. C.P. to add freq. 6256.5H MHz toward South Phoenix, Ariz., on azimuth 175°03'.
- 2492-C1-P-74, Same (WAD46), South Phoenix, 6.5 Miles SW. of Guadalupe, Arizona. Lat. 33°19'51" N., Long. 112°03'51" W. C.P. to add freq. 6004.5V MHz toward Phoenix, Ariz., on azimuth 355°04'; freq. 6004.5H MHz toward Casa Grande, Ariz., on azimuth 156°49'.
- 2493-C1-P-74, Same (WAD44), 4.0 Miles West of Casa Grande, Arizona. Lat. 32°51'57" N., Long. 111°49'42" W. C.P. to add freq. 6256.5V MHz toward South Phoenix, Ariz., on azimuth 336°57'; freq. 6315.9H MHz toward Florence, Ariz., on azimuth 73°06'.
- 2494-C1-P-74, Same (WAD43), 6.0 Miles SW. of Florence, Arizona. Lat. 32°57'54" N., Long. 111°26'19" W. C.P. to add freq. 6063.8V MHz toward Casa Grande, Ariz., on azimuth 253°19'; freq. 6063.8H MHz toward Miami, Ariz., on azimuth 56°16'.
- 2495-C1-P-74, American Telephone and Telegraph Company (WAD42), 7.0 Miles SSE of Miami, Arizona. Lat. 33°17'55" N., Long. 110°50'28" W. C.P. to add freq. 6315.9V MHz toward Florence, Ariz., on azimuth 236°36'; freq. 6315.9H MHz toward Seneca, Ariz., on azimuth 32°55'.
- 2496-C1-P-74, Same (WAD41), 7.0 Miles SW. of Seneca, Arizona. Lat. 33°39'37" N., Long. 110°33'39" W. C.P. to add freq. 6063.8V MHz toward Miami, Ariz., on azimuth 213°05'; freq. 6063.8H MHz toward McNary, Ariz., on azimuth 53°31'.
- 2497-C1-P-74, Same (WAD40), 3.0 Miles WSW of McNary, Arizona. Lat. 34°03'43" N., Long. 109°54'20" W. C.P. to add freq. 6315.9V MHz toward Seneca, Ariz., on azimuth 233°53'; freq. 6315.9H MHz toward Greer, Ariz., on azimuth 92°30'.
- 2498-C1-P-74, Same (WAD39), 6.2 Miles NW of Greer, Arizona. Lat. 34°02'57" N., Long. 109°34'00" W. C.P. to add freq. 6063.8V MHz toward McNary, Ariz., on azimuth 272°41'; freq. 6063.8H MHz toward Red Hill, N. Mex., on azimuth 75°02'.
- 2499-C1-P-74, Same (WAD45), 6.4 Miles SW of Red Hill, New Mexico. Lat. 34°10'54" N., Long. 108°57'48" W. C.P. to add freq. 6315.9V MHz toward Greer, Ariz., on azimuth 255°23'; freq. 6315.9H MHz toward Quemado, N. Mex., on azimuth 67°15'.
- 2500-C1-P-74, Same (WAD38), 6.7 Miles SW of Quemado, New Mexico. Lat. 34°18'24" N., Long. 108°36'09" W. C.P. to add freq. 6063.8V MHz toward Red Hill, N. Mex., on azimuth 247°28'; freq. 6063.8H MHz toward Datil, N. Mex., on azimuth 95°50'.
- 2501-C1-P-74, Same (WAD37), 9.7 Miles NW of Datil, New Mexico. Lat. 34°15'00" N., Long. 107°57'15" W. C.P. to add freq. 6315.9V MHz toward Quemado, N. Mex., on azimuth 276°12'; freq. 6315.9H MHz toward Magdalena, N. Mex., on azimuth 116°33'.
- 2502-C1-P-74, Same (WAD36), 12.5 Miles SW of Magdalena, New Mexico. Lat. 34°02'15" N., Long. 107°26'45" W. C.P. to add freq. 6063.8V MHz toward Datil, N. Mex., on azimuth 196°50'; freq. 6063.8H MHz toward La Joya, N. Mex., on azimuth 45°05'.
- 2503-C1-P-74, Same (WAD35), 10.5 Miles WNW of La Joya, New Mexico. Lat. 34°23'44" N., Long. 107°00'42" W. C.P. to add freq. 6315.9V MHz toward Magdalena, N. Mex., on azimuth 225°20'; freq. 6316.9H MHz toward Las Nutrias, N. Mex., on azimuth 84°03'.
- 2504-C1-P-74, American Telephone and Telegraph Company (WAD34), 4.2 Miles SE of Las Nutrias, New Mexico. Lat. 34°25'17" N., Long. 106°42'29" W. C.P. to add freq. 6063.8V MHz toward La Joya, N. Mex., on azimuth 204°13'; freq. 6063.8H MHz toward Los Lunas, N. Mex., on azimuth 346°16'.
- 2505-C1-P-74, Same (KKW32), 4.8 Miles West of Los Lunas, New Mexico. Lat. 34°47'50" N., Long. 106°40'10" W. C.P. to add freq. 6315.9V MHz toward Las Nutrias, N. Mex., on azimuth 166°12'; freq. 6256.5V MHz toward Albuquerque Jct., N. Mex., on azimuth 00°35'.
- 2506-C1-P-74, Same (KKP86), 10.4 Miles WSW of Albuquerque, New Mexico. Lat. 35°01'08" N., Long. 106°49'00" W. C.P. to add freq. 6004.5H MHz toward Los Lunas, N. Mex., on azimuth 180°36'.

2507-C1-P-74 West Texas Microwave Company (WJL37), Monahans, Texas. Lat. 31° 36'22" N., Long. 102°54'01" W. C.P. to add freqs. 5974.8V, 6034.2V MHz toward Fort Stockton, Tex., on azimuth 179°36' (via power split).

Corrections:

2145-C1-ML-74 American Telephone and Telegraph Company (KSO66), Morton Grove, Illinois. Polarization change from Horizontal to Vertical on freqs. 11285 and 11525 MHz toward Northbrook was erroneously omitted on Public Notice #678, dated 12-10-73. (All other particulars same as reported previously.)

2043-C1-P-74, Same (WGI25), Tucker, Georgia. Correct to Read: C.P. to add freqs. 3850H and 3930H MHz toward Smyrna, Ga., on azimuth 282°14'. (All other particulars same as reported on Public Notice #677, dated 12-3-73.)

INFORMATIVE

The Commission has received for coordination, a proposal from Bell Canada proposing to transmit frequency 3990H MHz (Output Power—5 Watts; Antenna Gain: 39.4 db; Emission Designator: 18800F9) from St. Alexandre, Quebec (Lat. 45°14'56" N., Long. 73°06'20" W.) on azimuth 214° 23' toward Scota, New York. Any licensee or permittee of the Commission wishing to object to this proposal must file such objections within ten days of the date of this notice.

[FR Doc.74-859 Filed 1-11-74;8:45 am]

CHICAGO REGIONAL OFFICE

Frequency Coordination Procedures

JANUARY 7, 1974.

This will announce the procedures to be followed in the Commission's Chicago Regional Office with regard to the requirement that evidence of frequency coordination accompany applications for facilities in the land mobile radio services. This aspect of the operations of the Chicago Regional Office was set out generally in Docket 19150, but specific dates were not previously issued.

Beginning February 1, 1974 the Chicago Regional Office will operate its automated frequency assignment system for each application received for new facilities and for certain categories of modifications to existing facilities. To ensure a smooth transition from the present system of frequency coordination, however, the Commission will continue to require for at least ninety days that each application be accompanied by evidence of coordination where such coordination has been required in the past. This dual selection process will continue until at least April 30, 1974.

Prior to dropping the requirement for coordination the Commission will issue a Public Notice detailing the procedures that will be followed when coordination is no longer required. The experience gained during the transitional period should be invaluable in developing the procedures for implementing this new system.

The Commission intends to work closely with the coordinators during the transitional period. Where the frequencies selected by the automated frequency assignment system appear to offer a substantial improvement over the frequency

recommended by the coordinator, the Chicago Regional Office will contact the coordinator and solicit his advice on the frequencies selected as best on the basis of monitoring and the Form 425 data base. If the coordinator expresses no objection to the frequency, the applicant will be contacted and asked to consider a change in frequency. Where the coordinator raises a valid objection, however, Chicago will work with him to find a mutually satisfactory frequency. The Commission trusts that the cooperation with the coordinators achieved during this transitional period will continue after frequency coordination is no longer required.

The details of the transitional procedure will be worked out informally with coordinators to ensure maximum effectiveness. In a like vein, the Chicago office will continue to work closely with the manufacturers whenever a change in frequency appears advisable.

**FEDERAL COMMUNICATIONS
COMMISSION,**

[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-984 Filed 1-11-74;8:45 am]

[Docket Nos. 19915, 19916; FCC 74-20]

**U-ANCHOR BROADCASTING AND
TELECORPUS, INC.**

**Order Designating Applications for
Consolidated Hearing on Stated Issues**

1. The Commission has before it for consideration the above-captioned applications for authority to construct and operate a new television station on channel 28, Corpus Christi, Texas. The applications are mutually exclusive in that operation by both applicants as proposed would result in mutually destructive interference. The Commission is, therefore, unable to find that grant of both applications is in the public interest and is required to designate the applications for hearing in a consolidated proceeding, on the issues set forth below.

2. The application (BPCT-4577) of Telecorpus, Inc., discloses that Tony Bonilla, Sr., Vice President and five-percent shareholder of the applicant, is the brother of William D. Bonilla, chairman of the board of South Texas Telecasting, Inc., licensee of KIII(TV), channel 3, Corpus Christi, which also operates a satellite, KXIX(TV), channel 19, Victoria, Texas.

3. The Bonillas are partners in a Corpus Christi law firm, Bonilla, Read, Rodriguez, Beckman and Bonilla. Telecorpus contends that "except for the usual common interest in the operation of their law partnership," they are completely independent from each other financially, that all Tony Bonilla's funds to be used in construction and operation of the proposed facility are his own. Telecorpus also states that the Bonillas have "no other significant joint business endeavors together," but then adds that the Bonillas do jointly own certain unenumerated "minor real estate holdings." Finally, Telecorpus avers that neither brother

will "in any way participate in the operation, management or affairs" of the other's television station, "or attempt to influence in any manner the operation or affairs" of the other station.

4. The Commission is unable to define what constitutes a "minor real estate holding." And the brothers' mutual disclaimer of any intention to become involved in the other's television interest falls short of an assurance that the two stations would genuinely compete on an arms-length basis, in the event the application of Telecorpus is granted. The Commission has consistently held that family relationship standing alone is insufficient to create the presumption of common control. L & S Broadcasting Co., 6 FCC 2d 535, 9 RR 2d 423. But one of the principles underlying the multiple ownership rules is that where two stations serve substantially the same audience, it is desirable for the stations to "compete with each other, for the same audience and advertisers." 1964 Multiple Ownership Rules, FCC 64-445, 29 Fed. Reg. 7535, 2 RR 2d 1588, 1592 (1964). In the case of the Bonilla brothers, we have more than a mere family relationship. They are law partners; they jointly own certain "minor real estate holdings." Our uncertainty over what constitutes a "minor" real estate holding, and our interest in preserving genuine competition lead us to the conclusion that this issue is one which will best be resolved in the context of an evidentiary hearing. See Farnell O'Quinn, 15 FCC 2d 393 (1968).

5. With the exception of the matters discussed above, both applicants are otherwise qualified to construct, own and operate a new television broadcast station. Because the applications are mutually exclusive, the Commission is of the opinion they must be designated for hearing in a consolidated proceeding on the issues set forth below.

Therefore, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of U-Anchor Broadcasting, a division of U-Anchor Advertising, Inc., and Telecorpus, Inc., are designated for hearing in a consolidated proceeding, at a time and place to be specified, upon the following issues:

(1) To determine with respect to the application of Telecorpus, Inc.:

(a) The nature of the family, financial, business and other relationships between Tony Bonilla, Sr., and William D. Bonilla, and

(b) In light of the evidence adduced on the above issue, whether grant of the application of Telecorpus, Inc., would result in concentration of control of television broadcasting inconsistent with the public interest;

(2) To determine, on a comparative basis, which of the above-captioned applications, if granted, would better serve the public interest.

(3) To determine, in the light of the evidence on issues (1) and (2) above, which of the applications should be granted.

It is further ordered, That, to avail themselves of the opportunity to be

heard, the applicants herein, pursuant to § 1.221(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.

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 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: January 3, 1974.

Released: January 9, 1974.

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

[FR Doc.74-983 Filed 1-11-74; 8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary
GENERAL ELECTRIC CO.

Investigation Regarding Certification of Eligibility of Workers to Apply for Adjustment Assistance

The Department of Labor has received a Tariff Commission report containing an affirmative finding under Section 301(c)(2) of the Trade Expansion Act of 1962 with respect to its investigation of a petition for determination of eligibility to apply for adjustment assistance filed on behalf of the former workers producing electronic receiving tubes and components thereof known as mounts at the Owensboro, Ky. plant of the General Electric Co., New York, N.Y. (TEA-W-217). In view of the report and the responsibilities delegated to the Secretary of Labor under Section 8 of Executive Order 11075 (28 FR 473), the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.5 and this notice. The investigation relates to the determination of whether any of the group of workers covered by the Tariff Commission report should be certified as eligible to apply for adjustment assistance, provided for under Title III, Chapter 3, of the Trade Expansion Act of 1962, including the determination of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and the subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subparts B of 29 CFR Part 90.

Interested persons should submit written data, views or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C. on or before January 21, 1974.

Signed at Washington, D.C. this 7th day of January 1974.

GLORIA G. VERNON,
Director, Office of
Foreign Economic Policy.

[FR Doc.74-966 Filed 1-11-74; 8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.;
Temporary Reg. F-205]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a natural gas rate increase proceeding.

2. *Effective date.* This regulation is effective immediately.

3. Delegation.

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government before the Louisiana Public Service Commission in a proceeding Docket No. U-12411 involving natural gas supplied by the Arkansas Louisiana Gas Company.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON,
Administrator of General Services.

JANUARY 4, 1974.

[FR Doc.74-991 Filed 1-11-74; 8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

Applications for Initial Permits Electric Face Equipment Standard; Opportunity for Public Hearing

Applications for Initial Permits for Noncompliance with the Electric Face Equipment Standard have been received for items of equipment in the underground coal mines listed below.

- (1) ICP Docket No. 4070-000, Vandyke and Vandyke Coal Co., Mine No. 11, Mine ID No. 44 01530 0, Jewell Valley, Virginia.
- (2) ICP Docket No. 4072-000, Rockhouse Coal Co., Mine No. 1, Mine ID No. 15 02698 0, Phyllis, Kentucky.
- (3) ICP Docket No. 4071-000, A & E Coal Co., Mine No. 1, Mine ID No. 15 02783, Jackhorn, Kentucky.
- (4) ICP Docket No. 4058-000, Four L Coal Co., Inc., Mine No. 3, Mine ID No. 44 03451 0, Big Rock, Virginia.
- (5) ICP Docket No. 4077-000, Doris Coal Co., Mine No. 6, Mine ID No. 44 01875 0, Grundy, Virginia.

- (6) ICP Docket No. 4078-000, J & M Coal Co., L. Duncan Mine, Mine ID No. 40 00559 0, La Follette, Tennessee.
- (7) ICP Docket No. 4079-000, Long Branch Coal Co., Mine No. 2, Mine ID No. 15 02805 0, Partridge, Kentucky.
- (8) ICP Docket No. 4080-000, V and K Coal Co., Mine No. 2, Mine ID No. 44 00657 0, Jewell Valley, Virginia.
- (9) ICP Docket No. 4081-000, Garrett Coal Co., Mine No. 1, Mine ID No. 15 02722 0, Harlan, Kentucky.

In accordance with the provisions of section 305(a)(2) (30 U.S.C. 865(a)(2)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for an initial permit may be filed by January 29, 1974. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 Fed. Reg. 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the Office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNEBECK,
Chairman,
Interim Compliance Panel.

JANUARY 8, 1974.

[FR Doc.74-973 Filed 1-11-74; 8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[Docket No. SA-442]

AIRCRAFT POOL LEASING CORP.

Notice of Hearing

In the Matter of Investigation of Accident Involving Aircraft Pool Leasing Corp., Lockheed L-1049H of United States Registry N6917C at Miami, Florida, December 15, 1973.

Notice is hereby given that an Accident Investigation Hearing on the above matter will be held commencing at 9:00 a.m., (local time) on February 5, 1974, in the Everglades Room of the Everglades Hotel, Biscayne Bay at Third Street, Miami, Florida.

Dated this 7th day of January 1974.

[SEAL] JAMES W. KUEHL,
Hearing Officer.

[FR Doc.74-939 Filed 1-11-74; 8:45 am]

OFFICE OF TELECOMMUNICATIONS POLICY

FREQUENCY MANAGEMENT ADVISORY COUNCIL

Notice of Public Meeting

Notice is hereby given that the Frequency Management Advisory Council (FMAC) will meet at 10:00 a.m. in Room 712, 1800 G Street NW., Washington, D.C., on Wednesday, January 23, 1974.

The principal agenda items will be: (1) a continued discussion of progress of preparation for the 1974 ITU Maritime WARC; (2) planning for future ITU conferences; (3) a briefing on cal-

culating an electromagnetic compatibility figure of merit (FOM); and (4) the development of an FMAC study program in support of its advisory role to OTP.

The meeting will be open to the public; any member of the public will be permitted to file a written statement with the Council, before or after the meeting.

The names of the members of the Council, a copy of the agenda, a summary of the meeting, and other information pertaining to the meeting may be obtained from Mr. L. R. Raish, Office of Telecommunications Policy, Washington, D.C. 20504 (telephone: 202-395-5623).

Dated: January 9, 1974.

BRYAN M. EAGLE,
Advisory Committee
Management Officer.

[FR Doc.74-990 Filed 1-11-74;8:45 am]

POSTAL RATE COMMISSION

[Docket No. R74-1]

DESIGNATION OF OFFICER TO REPRESENT INTERESTS OF THE GENERAL PUBLIC

JANUARY 8, 1974.

On October 31, 1973, the Commission issued a Notice designating Lloyd E. Dietrich, Assistant General Counsel, Appeals Division, as the Officer of the Commission who shall represent the interests of the general public in this proceeding pursuant to Section 3624(a) of the Postal Reorganization Act (39 U.S.C. § 3624(a)). The Commission has recently decided to appoint Mr. Dietrich as General Counsel of the Commission, effective on or about February 1, 1974. To permit Mr. Dietrich to prepare for and carry out his new duties, his designation as Officer of the Commission has been concluded. A new Officer will be designated in due course. In the interim, the legal and technical staff assigned to assist Mr. Dietrich will continue to carry out its functions.

The Commission has given careful consideration to the question of whether Mr. Dietrich's actions as Officer of the Commission will preclude him from advising the Commission with respect to its decision in this proceeding. After a complete review of Mr. Dietrich's actions including appearances at prehearing conferences and the preparation of pretrial pleadings, we have concluded that neither Rule 8 of the Commission's Rules of Practice nor any other law or regulation preclude Mr. Dietrich from advising the Commission with respect to its decision in this proceeding. Out of an abundance of caution, however, the Commission will not be advised by Mr. Dietrich on any matter as to which the Officer of the Commission has taken a position in the pretrial proceedings. As to these matters the Commission will obtain legal advice from other counsel.

By the Commission.

JOSEPH A. FISHER,
Secretary.

[FR Doc.74-987 Filed 1-11-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

ALRAC CORP.

Notice of Suspension of Trading

JANUARY 3, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Alrac Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 2 p.m., e.s.t., on January 3, 1974 through January 12, 1974.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-949 Filed 1-11-74;8:45 am]

[70-5334]

CONSOLIDATED NATURAL GAS CO., ET AL.

Notice of Second Post-Effective Amendment Regarding Intrasystem Financings

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and its above-named wholly-owned subsidiary companies, have filed with this Commission a second post-effective amendment to their application-declaration in this proceeding, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(a), 6(b), 7, 9(a), 10, 12(b) and 12(f) of the Act and Rules 43, 45 and 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to said amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By Orders dated June 8, 1973 and September 6, 1973, Consolidated and said subsidiary companies were authorized to effectuate a number of intra-system financing transactions in connection with the System's financing program for 1973 (see HCAR Nos. 17994 and 18085). These orders, among other things, authorized Consolidated, during 1973, to (a) make long-term loans to Consolidated System LNG Company ("Consolidated LNG") and The River Gas Company ("River Gas"); (b) purchase additional shares of capital stock of CNG Development Company, Ltd. ("CNG Ltd.") and Consolidated LNG; and (c) make non-interest-bearing open-account advances to CNG Producing Company ("CNG Company").

It is now proposed that Consolidated acquire, and said subsidiary companies issue and sell, additional long-term notes and/or shares of common stock, through May 31, 1974, as follows:

| Issuer | Long-term notes | Capital stock (\$100 par value) |
|-----------------------|-----------------|---------------------------------|
| Consolidated LNG..... | \$6,500,000 | \$7,500,000 |
| CNG Ltd..... | | 1,100,000 |
| River Gas..... | 200,000 | |
| CNG Co..... | | 3,200,000 |
| Total..... | 6,700,000 | 11,800,000 |

Consolidated LNG's authorized capital stock is at present limited to 100,000 shares, of which 75,000 shares are estimated to be issued and outstanding at December 31, 1973. To accommodate issuance of the proposed additional 75,000 shares indicated in the above table, and to provide for its future financing requirements, Consolidated LNG also proposes to amend its charter so as to increase its authorized capital stock, \$100 par value, from 100,000 shares to 400,000 shares.

The long-term notes will bear interest at the rate of 7.75% per annum, which is substantially equal to the effective cost of money to Consolidated in respect of the last public sale of its debentures, in June 1973; will be dated the date of issuance; and will be payable in the years 1978 through 1998 in amounts paralleling the sinking fund and maturity terms of said debentures.

The proceeds from the proposed sale of securities will be used, through May 31, 1974, by Consolidated LNG for expenditures in respect of its liquefied natural gas project under construction at Cove Point, Maryland; by CNG Ltd. for additional capital expenditures; by River Gas to meet the cost of additional capital expenditures made in 1973; and by CNG Producing for gas exploration and development in Canada estimated at \$2,100,000 and the balance of lease costs in the southern United States.

Expenses to be incurred in connection with the transactions proposed in said post-effective amendment are estimated not to exceed \$550, including services of \$500 billed at cost by Consolidated Natural Gas Service Company, Inc., a subsidiary service company. It is stated the proposed issuance of additional long-term notes by River Gas is subject to approval of the Public Utilities Commission of Ohio and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than January 29, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration as further amended by said post-effective amendment which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more

than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendment or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-944 Filed 1-11-74;8:45 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.
Notice of Suspension of Trading

JANUARY 4, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Vending Machine Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from January 5, 1974 through January 14, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-957 Filed 1-11-74;8:45 am]

[File No. 500-1]

ECOLOGY DEVELOPMENT CORP.
Notice of Suspension of Trading

JANUARY 3, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Ecology Development Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 2 p.m.,

e.s.t., on January 3, 1974 through January 12, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-951 Filed 1-11-74;8:45 am]

[File No. 500-1]

**HOFFMAN OF NEWARK (FORMERLY
HOFFMAN PRODUCTS, INC.)**
Notice of Suspension of Trading

JANUARY 3, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Hoffman of Newark being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 2 p.m., e.s.t., on January 3, 1974 through January 12, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-948 Filed 1-11-74;8:45 am]

[File No. 500-1]

HOME-STAKE PRODUCTION CO.
Notice of Suspension of Trading

JANUARY 4, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Home-Stake Production Company being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from January 5, 1974 through January 14, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-954 Filed 1-11-74;8:45 am]

[File No. 500-1]

INSURANCE INDUSTRIES, INC.
Notice of Suspension of Trading

JANUARY 3, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Insurance Industries, Inc., being traded otherwise than on a national securities exchange is required in the pub-

lic interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 2 p.m., e.s.t., on January 3, 1974 through January 12, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-946 Filed 1-11-74;8:45 am]

[File No. 500-1]

I T I ELECTRONICS, INC.
Notice of Suspension of Trading

JANUARY 3, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of I T I Electronics, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period, from 2 p.m., (e.s.t.), on January 3, 1974 through January 12, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-947 Filed 1-11-74;8:45 am]

[812-3471]

**INVESTORS DIVERSIFIED SERVICES, INC.
ET AL.**

Amended Application for Exemption

Notice is hereby given that Investors Diversified Services, Inc. ("IDS"), Investors Syndicate of America, Inc. ("ISA"), IDS Life Insurance Company ("IDS Life"), IDS Life Variable Annuity Fund A and IDS Life Variable Annuity Fund B (collectively the "Variable Annuity Funds"), and IDS Growth Fund, Inc., IDS New Dimensions Funds, Inc., IDS Progressive Fund, Inc., Investors Mutual, Inc., Investors Selective Fund, Inc., Investors Stock Fund, Inc., Investors Variable Payment Fund, Inc. (collectively the "Mutual Funds") (collectively the "Applicants") have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order of temporary exemption to the extent noted below from Sections 15(a), 15(b), and 15(c) of the Act. On September 14, 1973, a notice of filing of said application was issued (Investment Company Act Release No. 7992). Subsequent to the issuance of such notice, Applicants amended their application to enlarge the requested exemption to cover a situation created by the liquidation and dissolution of The Allan Corporation and

the resignation of certain trustees of the Kirby family trust funds. All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations contained therein, which are summarized below.

As stated in the previously issued notice, IDS acts as investment adviser to, and as principal underwriter for, the Mutual Funds and ISA, a wholly-owned subsidiary of IDS and IDS Life, a wholly-owned subsidiary of IDS, act as investment advisers for the Variable Annuity Funds. IDS Life, in addition, acts as principal underwriter for the Variable Annuity Funds. The Alleghany Corporation ("Alleghany") owns beneficially 44.4% of the outstanding voting securities of IDS which ownership gives Alleghany presumptive control of IDS pursuant to Section 2(a)(9) of the Act. Alleghany, in turn, was presumptively controlled by The Allan Corporation which owned 29.2% of Alleghany's outstanding voting securities. All of the outstanding voting securities of The Allan Corporation were owned by a series of trust funds. The trustees of each trust fund were Mrs. Allan P. Kirby ("Kirby") and her four children. The beneficiaries of such trusts are the trustees and Mrs. Kirby's grandchildren.

Prior to August 20, 1973, the power to vote the 29.2 percent of Alleghany was held by the directors of The Allan Corporation who were elected by the trustees of the Kirby family trusts. On said date, The Allan Corporation assigned and transferred all of its 2,382,200 shares (29.2%) of Alleghany to the Kirby family trusts pursuant to a Plan of Complete Liquidation and Dissolution dated August 17, 1973. One-half of these shares were transferred to a trust the sole beneficiary of which is Mrs. Kirby. The other half of the Alleghany shares were divided equally among trusts the beneficiaries of which are Mrs. Kirby's children and grandchildren. On October 24, 1973, Mrs. Kirby resigned as trustee of the family trusts, other than the trust created for her benefit, and each of the four children resigned as trustee of those trusts created for the benefit of his or her brothers or sisters or the children of such brothers or sisters. The First National Iron Bank of New Jersey, Irving Trust Company, John H. Culbertson, C. Freeman Ayers, and Walter D. Kirby were named as successor co-trustees of certain of the trusts. No trust or trusts, however, of which any one of such successor co-trustees is a co-trustee hold more than 2.5 percent of the outstanding common stock of Alleghany.

Each of the investment advisory contracts and principal underwriting agreements between IDS and the Mutual Funds, ISA, and the Variable Annuity Funds, and the investment advisory contracts and principal underwriting agreements between IDS Life and Variable Annuity Funds contain the provision required by Section 15 of the Act for automatic termination in the event of their "assignment". Section 2(a)(4) of the Act defines the term "assignment" to include,

in part, any direct or indirect transfer of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor.

Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as an investment adviser of an investment company except pursuant to a written contract which has been approved by a vote of a majority of the outstanding voting securities of such company.

Section 15(b) of the Act provides, in pertinent part, that it shall be unlawful for any principal underwriter for an open-end company to offer for sale, sell, or deliver after sale any security of which such company is the issuer except pursuant to a written contract with such company.

Section 15(c) of the Act provides, in pertinent part, that it shall be unlawful for any investment company having a board of directors to enter into, renew, or perform any investment advisory or underwriting contract unless the terms of such contract and any renewal thereof have been approved by the vote of a majority of directors who are not parties to such contract or interested persons of any such party.

Applicants submit that if the trustee resignations following the transfer of the Alleghany shares to the trust funds constituted an "assignment" of the investment advisory and principal underwriting contracts, those contracts automatically terminated upon such resignations. Therefore, Applicants, in addition to the relief previously requested, request an order pursuant to Section 6(c) of the Act exempting them from the provisions of Section 15(a), 15(b), and 15(c) to the extent necessary to permit the following: (i) IDS to act as investment adviser to the Mutual Funds for the period from the date of such resignations until the final adjournment of the next shareholders' meeting of each of the Mutual Funds held subsequent thereto; (ii) IDS to act as investment adviser to ISA for the period from the date of such resignations until the final adjournment of the next shareholder's meeting of ISA held subsequent thereto; (iii) IDS and IDS Life to act as investment advisers to the Variable Annuity Funds for the period from the date of such resignations until the final adjournment of the next contract holder's meeting of each of the Variable Annuity Funds held subsequent thereto; (iv) IDS to act as principal underwriter for ISA and the Mutual Funds for the period from the date of such resignations until the final adjournment of the next board of directors meeting of ISA and each of the Mutual Funds held subsequent thereto; (v) IDS Life to act as principal underwriter for the Variable Annuity Funds for the period from the date of such resignations until the next board of directors meeting of each of the Variable Annuity Funds held subsequent thereto.

The next meeting of shareholders or contract holders of the Mutual Funds, ISA, and the Variable Annuity Funds held subsequent to the date of the trustee

resignations will, in no event, be held later than one year from the date of such resignations. The next meeting of the boards of directors of the Mutual Funds, ISA, and the Variable Annuity Funds held subsequent to the date of the trustee resignations will, in no event, be held later than 120 days from the date of such resignations.

The next meeting of shareholders or contract holders of the Mutual Funds, ISA, and the Variable Annuity Funds held subsequent to the date of distribution under the will of Allan P. Kirby ("Kirby"), which distribution is fully described in the previously issued notice, will, in no event, be held later than one year from the date of such distribution. The next meeting of boards of directors of the Mutual Funds, ISA, and the Variable Annuity Funds held subsequent to the date of distribution under the will of Kirby will, in no event, be held later than 120 days from the date of such distribution.

Applicants expect no changes in the investment advisory or underwriting policies, practices, or personnel of IDS and IDS Life due to the transfer of the Alleghany shares from The Allan Corporation to the trust funds and the subsequent resignation of trustees as described above.

Applicants estimate that it would cost approximately \$350,000 to hold special shareholder's and contract holder's meetings for the Mutual Funds and the Variable Annuity Funds following the resignation of the trustees. Applicants contend that no substantial benefit to the shareholders would result from such meetings.

Applicants submit that the granting of the requested exemptions is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and the provisions of the Act.

Notice is further given that any interested person may, not later than January 29, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants and the addresses stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following January 29, 1974, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons

who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-941 Filed 1-11-74; 8:45 am]

KORACORP INDUSTRIES, INC.

[File No. 500-1]

Notice of Suspension of Trading

JANUARY 4, 1974.

The common stock of Koracorp Industries, Incorporated being traded on the New York Stock Exchange and the Pacific Coast Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Koracorp Industries, Incorporated being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange is suspended, for the period from January 5, 1974 through January 14, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-959 Filed 1-11-74; 8:45 am]

[File No. 500-1]

MY TOY CO., INC.

Notice of Suspension of Trading

JANUARY 3, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of My Toy Company, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 2 p.m., e.s.t., on January 3, 1974 through January 12, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-952 Filed 1-11-74; 8:45 am]

[812-3559]

NEUWIRTH FUND, INC. ET AL.

Filing of Application for Exemption

Notice is hereby given that an application has been filed pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") by Neuwirth Fund, Inc. ("Neuwirth Fund") Neuwirth Century Fund, Inc. ("Century") (collectively the "Funds"), registered under the Act as open-end management investment companies, and Clark, Dodge & Co. Incorporated ("Clark, Dodge"), an investment adviser as defined by the Investment Advisers Act of 1940, (collectively the "Applicants"). The application requests an order of the Commission exempting the Applicants from the provisions of Section 15(a) of the Act in connection with the retroactive payment by the Funds to Clark, Dodge of advisory fees, less previously reimbursed costs and expenses of Clark, Dodge, for the period from November 1, 1973 to the date of the special meetings of stockholders of the respective Funds scheduled for January 24, 1974 (or any adjournment thereof) at which meetings the payment of such fees shall be approved by the shareholders of the Funds. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Until July 28, 1973, Neuwirth Management and Research Corporation ("NMRC") served as investment adviser to Neuwirth Fund and Century pursuant to advisory contracts dated August 31, 1970, as amended, and June 30, 1973, respectively (the "Old Contracts"). On July 28, 1973, Henry Neuwirth ("Neuwirth"), controlling stockholder of NMRC, died. Neuwirth's death resulted in an assignment, as that term is defined in Section 2(a)(4) of the Act, of the Old Contracts and in their automatic termination pursuant to their terms and section 15(a)(4) of the Act.

Section 15(a) of the Act also provides, among other things, that it shall be unlawful for any person to serve or Act as an investment adviser of a registered investment company except pursuant to a written contract which has been approved by the vote of a majority of the outstanding voting securities of such registered investment company.

On July 31, 1973, the Board of Directors of each of the Funds voted (a) to ratify the performance of NMRC under the Old Contracts for the period from July 28 to July 31, 1973, and (b) to re-adopt the Old Contracts for the period from August 1 to October 31, 1973, subject to the receipt of a necessary order of exemption from the Commission. On September 20, 1973, an order was issued (Investment Company Act Release No. 7998) granting exemptions to the Funds and NMRC from Sections 15(a) and 15(c) of the Act during the period from July 28 to July 31, 1973, and from Section 15(a) of the Act during the period from August 1 to October 31, 1973, subject to the condition that the shareholders of

each of the Funds ratify the performance of the Old Contracts by NMRC from July 28, 1973 to October 31, 1973.

At a meeting held on October 10, 1973, the Board of Directors of each of the Funds, after consideration of several alternatives, voted to recommend to stockholders of each of the Funds that Clark, Dodge be retained as investment adviser to the Funds. The directors, none of whom is an interested person (as defined by the Act) of the Funds or of Clark, Dodge, voted, subject to approval by the vote of a majority of the outstanding voting securities of the respective Funds, to enter into new advisory contracts (the "New Contracts") with Clark, Dodge, in forms substantially similar to the respective Old Contracts, except for percentage fee arrangements and payment of fees or expenses of directors affiliated with Clark, Dodge.

On October 11, 1973, each of the Funds executed a letter agreement with Clark, Dodge (the "Agreements"), pursuant to which Clark, Dodge undertook to perform portfolio management and administrative services for the Funds and Neuwirth Fund and Century agreed to reimburse Clark, Dodge monthly for their allocable share of Clark, Dodge's costs and expenses in so managing the Funds provided, however, that such reimbursements would not exceed the proposed advisory fees under the New Contracts. The Funds also agreed that each would use its best efforts to call a stockholders meeting as soon as reasonably possible for the purpose of voting (a) for approval or disapproval of the payment to Clark, Dodge by the respective Funds of the advisory fees provided for under the New Contracts for the period between the time Clark, Dodge commenced to render such services and the time when the shareholders might ratify the retroactive payment of such fee (the "Interim Period"), less the amount of any costs and expenses of Clark, Dodge previously reimbursed by the Funds during such period.

In the event that such retroactive payment to Clark, Dodge is made by each of the Funds, upon the approval of shareholders, Clark, Dodge may be deemed to have acted as an investment adviser to each of the Funds during the Interim Period without a written contract that had previously been approved by shareholders as is required by Section 15(a) of the Act. An exemption from Section 15 of the Act to permit such payment would be appropriate, it is argued, in view of Clark, Dodge's services to the Funds and the continuity of management with which Clark, Dodge will provide the Funds during the Interim Period.

Applicants represent that no retroactive advisory fee will be paid by either of the Funds to Clark, Dodge until the Commission has granted the order requested and until the stockholders of Neuwirth Fund and Century have approved, by a majority of the outstanding voting securities of each fund, respectively, the payment of such retroactive

advisory fees, less the costs and expenses previously paid during the Interim Period.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 28, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following January 28, 1974, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-943 Filed 1-11-74;8:45 am]

[File No. 500-1]

OMEGA ALPHA, INC.

Notice of Suspension of Trading

JANUARY 4, 1974.

The convertible subordinated debentures 4½'s due 1992, subordinated debentures 6½'s due 1988, and warrants of Omega Alpha, Incorporated being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and the common stock and all other securities of Omega Alpha,

Incorporated being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from January 6, 1974 through January 15, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-956 Filed 1-11-74;8:45 am]

[File No. 500-1]

SEABOARD AMERICAN CORP.

Notice of Suspension of Trading

JANUARY 4, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Seaboard American Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

THEREFORE, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from January 7, 1974 through January 16, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-958 Filed 1-11-74;8:45 am]

[File No. 500-1]

SEABOARD CORP.

Notice of Suspension of Trading

JANUARY 4, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, units and warrants of Seaboard Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from January 6, 1974 through January 15, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-961 Filed 1-11-74;8:45 am]

[812-3531]

STATE MUTUAL SECURITIES, INC. AND JOSEPH R. CARTER

Notice of Application for Exemption

Notice is hereby given that State Mutual Securities, Inc. ("Corporation"), a diversified, closed-end management investment company registered under the Investment Company Act of 1940 ("Act"), and Joseph R. Carter ("Carter") (collectively "Applicants"), have filed an application pursuant to section 6(c) of the Act for an order declaring that Carter shall not be deemed an "interested person" of the Corporation within the meaning of section 2(a)(19) of the Act solely by reason of his status as director of Avco Corporation ("Avco"). All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Carter, a director and President of Wyman-Gordon Co., a producer of impression die forgings, is a member of the board of directors of the Corporation. He is also a director of Avco which is the parent corporation of the Paul Revere Corporation ("Paul Revere"). Paul Revere owns the Paul Revere Life Insurance Company ("Paul Revere Life") which in turn owns the Paul Revere Equity Sales Company ("Sales Company"), a broker-dealer registered under the Securities Exchange Act of 1934. Applicants state that the only business in which Sales Company is presently engaged is the sale of shares of Paul Revere Courier Fund, Inc.

Applicants state that Carter has no affiliation with Sales Company other than as a director of Avco. Carter, who presently receives a director's fee of \$9,000 per year from Avco, does not own any securities issued by Avco.

Applicants contend that Carter is not subject to any conflicts of interest as a result of his being a director of Avco since his activities in that capacity are isolated from and independent of any business activities of the Corporation and of State Mutual Life Assurance Company of America and its subsidiary, Colonial Management Associates, the investment advisers of the Corporation. Applicants further represent that Carter, in his capacity as a director of Avco, has no supervisory authority over, or direct responsibility for, or anything else to do with the management or operation of Paul Revere Life or any subsidiary thereof. Moreover, Applicants state that the Sales Company does not sell shares of the Corporation or engage in portfolio securities transactions with or on behalf of the Corporation. The Corporation is not engaged in a continuous offering of its shares and has no principal underwriter.

Applicants assert that Sales Company would not be considered by the Corporation as a potential firm through which to execute securities transactions or sell Corporation shares. The Corporation represents that, so long as Carter remains a director of the Corporation, it will not knowingly purchase any securi-

ties from or through, or sell any securities to or through Avco, or any subsidiary of Avco and Avco, or any subsidiary of Avco, will not knowingly be permitted to participate in any distribution of Corporation shares.

Section 2(a) (19) of the Act, as here pertinent, defines an interested person, when used with respect to an investment company or its investment adviser, to include any broker or dealer registered under the Securities Exchange Act of 1934, or any affiliated person of such a broker or dealer. Section 2(a) (3) of the Act defines an affiliated person of another person to include any director, officer, or employee of such other person.

By reason of his being a director of Avco, which indirectly owns Sales, a broker-dealer, Carter may be deemed an "interested person" of the Corporation and its investment advisers.

Section 6(c) of the Act provides that the Commission may, upon application, conditionally or unconditionally exempt any person from any provisions of the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and with the purposes fairly intended by the policy and provisions of the Act.

Applicants submit that it would be appropriate in the public interest to exempt Carter from the definition of "interested person" so that the Corporation, which desires the preponderant part of its board of directors to consist of persons not so categorized, may include Carter among such persons. Applicants contend that Carter should be exempted from the definition of an "interested person" because his affiliation with Avco does not and will not impair his independence in acting on behalf of the Corporation and the shareholders of the Corporation and that such exemption would, therefore, be consistent with the protection of investors and the purposes of the Act.

NOTICE IS FURTHER GIVEN that any interested person may, not later than January 29, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the addresses stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the Application herein will be issued as of course following January 29, 1974, unless the Commission thereafter orders a hearing upon request or upon

the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-942 Filed 1-11-74; 8:45 am]

STRATTON GROUP, LTD.

[File No. 500-1]

Notice Amending Notice of Suspension of Trading

JANUARY 3, 1974.

The Commission having determined to amend its notice of December 21, 1973 summarily suspending trading in the securities of Stratton Group, Ltd. for the period December 26, 1973 through January 4, 1974;

Therefore, pursuant to sections 15(c) (5) and 19(a) (4) of the Securities Exchange Act of 1934, that trading in the common stock, and all other securities of Stratton Group, Ltd. being traded on the American Stock Exchange and all other securities of Stratton Group, Ltd. being traded otherwise than on a national securities exchange is suspended, for the period from December 26, 1973 through January 4, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-950 Filed 1-11-74; 8:45 am]

[File No. 500-1]

STRATTON GROUP, LTD.

Notice of Suspension of Trading

JANUARY 4, 1974.

The common stock of Stratton Group, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Stratton Group, Ltd., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a) (4) and 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from January 5, 1974 through January 14, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-960 Filed 1-11-74; 8:45 am]

[File No. 500-1]

TECHNICAL RESOURCES, INC.

Notice of Suspension of Trading

JANUARY 4, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Technical Resources Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

THEREFORE, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from January 7, 1974 through January 16, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-955 Filed 1-11-74; 8:45 am]

[File No. 500-1]

TRANS NATIONAL COMMUNICATIONS, INC.

Notice of Suspension of Trading

JANUARY 3, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Trans National Communications, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 2 p.m., e.s.t., on January 3, 1974 through January 12, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-953 Filed 1-11-74; 8:45 am]

[File No. 500-1]

UNICO AMERICAN CORP.

Notice of Suspension of Trading

JANUARY 3, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Unico American Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 2 p.m., e.s.t., on January 3, 1974 through January 12, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-945 Filed 1-11-74; 8:45 am]

**FEDERAL ENERGY OFFICE
ENVIRONMENTAL ADVISORY
COMMITTEE**

Notice of Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Environmental Advisory Committee will be held Friday, January 25, 1974, at 10 a.m., in Room 4121, Treasury Building, 15th and Pennsylvania Avenue NW., Washington, D.C.

The Committee was established to advise the Administrator, FEO, with respect to general environmental aspects of interests and problems related to the policy and implementation of programs to meet the current national energy crisis. The agenda for the meeting is as follows:

I. FEO Administrator's Reaction to Initial Recommendations of the Committee.

II. Environmental Impact of Proposed Energy Supply Alternatives:

A. Strip Mining.

B. Oil Shale.

C. Off-shore Oil Leasing.

III. Need for Adequate Data.

IV. Coal Conversion Strategy.

V. Energy Research and Development (more emphasis on conservation and efficiency of utilization).

VI. Other Business (Administrative).

The meeting is open to the public, however, space and facilities are limited.

Further information concerning the meeting may be obtained from Jim Oberwetter, Office of the Administrator, Environmental Protection Agency (West Tower) 401 "M" Street SW., Washington, D.C. 20460, Area Code: 202-755-0416. Minutes of the meeting will be made available for public inspection at the Federal Energy Office, Washington, D.C.

Dated: January 10, 1974.

WILLIAM E. SIMON,
Administrator.

[FR Doc.74-1274 Filed 1-11-74; 10:48 am]

tee is contained in its charter which is published below.

Dated: January 11, 1974.

WILLIAM E. SIMON,
Administrator.

CHARTER

**MAJOR OIL COMPANIES (CRUDE PRODUCERS,
REFINERS) ADVISORY COMMITTEE**

1. *Objectives and scope of activities.* The objectives of the Major Oil Companies (Crude Producers, Refiners) Advisory Committee are to fully consider the complexities of the petroleum industry in the development of realistic, workable regulations, and to provide a channel for rapidly conveying to the industry any areas of particular concern that the Federal Energy Office (FEO) may have.

2. *Committee tenure.* In view of the goals and purposes of the Committee, it will be expected to continue beyond the foreseeable future. However, its continuation will be subject to biennial review and renewed as required by section 14 of Pub. L. 92-463.

3. *Official to whom committee reports.* The Committee will report to the Administrator, Federal Energy Office.

4. *Support services.* Necessary support for the Committee will be furnished by the Federal Energy Office.

5. *Committee duties.* The duties of the Committee are solely advisory and are stated in paragraph 1 above.

6. *Estimated annual cost.* The estimated annual operating costs for the Committee are \$20,000 and involve approximately one-half man-years of staff support.

7. *Meetings.* The Committee will meet approximately four times a year.

8. *Termination date.* The Committee will terminate two years from date of this Charter, unless prior to that date renewal action is taken by the Administrator, FEO, as described in paragraph 2 above.

9. *Determination.* Establishment of this Committee is determined to be in the public interest in connection with the performance of duties imposed on the Federal Energy Office by Executive Order No. 11748 dated December 4, 1973, which delegated to the Administrator, FEO, authority vested in the President by the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159); section 203(a) (3) of the Economic Stabilization Act of 1970 (Pub. L. 91-379) as amended; and specified authorities under the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), as amended.

[FR Doc.74-1296 Filed 1-11-74; 12:10 pm]

**MAJOR OIL COMPANIES (OIL PRODUCERS,
REFINERS) ADVISORY COMMITTEE**

Notice of Establishment

This notice is published in accordance with the provisions of section 9(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463). Following consultation with the Office of Management and Budget, notice is hereby given that it is in the public interest to establish the Major Oil Companies (Oil Producers, Refiners) Advisory Committee, in connection with the performance of duties imposed by law on the Federal Energy Office. A description of the nature and purpose of the Major Oil Companies (Oil Producers, Refiners) Advisory Commit-

**MAJOR OIL COMPANIES (OIL PRODUCERS,
REFINERS) ADVISORY COMMITTEE**

Notice of Meeting

Notice is hereby given in accordance with Public Law 92-463, that there will be a meeting of the Major Oil Companies (Oil Producers, Refiners) Advisory Committee. The Committee is composed of representatives of major oil producers, refiners from all areas of the United States. The meeting will be held in Washington, D.C., in the auditorium of Main Interior Building, 18th and C Streets NW., from 9:30 a.m. to 11:30 a.m. on Wednesday, January 16, 1974.

The purpose of the meeting is to hear views and questions of the industry sector represented as to the effects upon demand-supply relationships, distribution of petroleum, and industry capabili-

ties of the revised Mandatory Fuel Allocation Regulations.

The meeting is open to the public. Further information may be obtained from Mr. Dell V. Perry, Assistant Director, Office of Oil and Gas, U.S. Department of the Interior, Washington, D.C., telephone: (202) 343-6951. A transcript of the meeting will be made.

Due to the urgency of obtaining the views of persons affected by the regulations to assist in implementation, more timely notice was not possible.

Dated: January 11, 1974.

WILLIAM E. SIMON,
Administrator.

[FR Doc.74-1295 Filed 1-11-74; 12:09 pm]

**INTERSTATE COMMERCE
COMMISSION**

[Notice No. 422]

ASSIGNMENT OF HEARINGS

JANUARY 9, 1974.

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 January 14, 1974.

MC 75320 Sub-162, Campbell Sixty-Six Express, Inc., now assigned January 21, 1974, at Jackson, Miss., is postponed to January 23, 1974, at Jackson, Miss., same time and place.

MC-113651 Sub 157, Indiana Refrigerator Lines, Inc., now assigned January 21, 1974, at Denver, Colo., is canceled and the application is dismissed.

MC 138781, Kro-Flite Cartage Co., now assigned January 14, 1974, at Chicago, Ill., is canceled and the application dismissed.

MC 113678 Sub 503, Curtis, Inc., now assigned January 23, 1974, at Chicago, Illinois, is canceled and application dismissed.

MC-F-11479, Harry Earl Newlon, Jr., d.b.a. Newlon's Transfer-Purchase (Portion)—Whitnes Transfer Company, Inc., now being assigned February 25, 1974, at the Interstate Commerce Commission, Washington, D.C.

MC-C-7851 Sub 1, Joseph S. Triglia—Revocation of Certificates, now being assigned February 27, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-FC-74226, Taylor Freight System, Inc., Philadelphia, Pa., Transferee and Dependable Container Service, Inc., now being assigned March 4, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-FC-74488, Jetex Freight Systems, Inc., Newton, Pa., Transferee and James H. Russell, now being assigned March 4, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 126276 Sub 78, Fast Motor Service, Inc., now being assigned March 5, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-8102, Hagerstown Motor Express Co., Inc., now being assigned March 5, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

W-595 Sub-4, Norfolk, Baltimore and Carolina Line Incorporated, now being assigned March 18, 1974, at the Offices of the Interstate Commerce Commission.

MC-217 Sub 16, Point Transfer, Inc., MC-8600 Sub 31, Werner Continental, Inc., MC-13569 Sub 27, The Lake Shore Motor Freight Co., MC-14552 Sub 50, J. V. Mc-Nicholas Transfer Co., & MC-138286 Sub 2, John F. Scott Co., now being assigned hearing March 4, 1974 (1 week), at Pittsburgh, Pa., in a hearing room to be later designated.

No. 35834, Increased Rates, Matson Navigation Company, No. 35834 Sub 2, Increased Rates, Trans-Continental Freight Bureau, No. 35834 Sub 1, Increase Rates, Seatrain Lines, California, No. 35834 Sub 3, Increased Rates, United States Lines, Inc., proceedings discontinued.

MC 109462 Sub 16, Lumber Transport, Inc., now assigned February 25, 1974, at Dallas, Texas, is canceled and the application is dismissed.

MC 106647 Sub 41, Clark Transport Company, Inc., now being assigned hearing March 18, 1974 (2 days), at Minneapolis, Minn., in a hearing room to be later designated.

MC 114789 Sub 41, Nationwide Carriers, Inc., now being assigned hearing March 20, 1974 (3 days), at Minneapolis, Minn., in a hearing room to be later designated.

MC 107496 Sub 904, Ruan Transport Corp., now being assigned hearing March 4, 1974 (2 days), at Chicago, Illinois, in a hearing room to be later designated.

MC 114632 Sub 57, Apple Lines, Inc., now being assigned hearing March 6, 1974 (3 days), at Chicago, Illinois, in a hearing room to be later designated.

MC 136512 Sub 2, Space Carriers, Inc., now being assigned hearing March 11, 1974 (1 week), at Chicago, Illinois, in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 74-1004 Filed 1-11-74; 8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 9, 1974.

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 January 29, 1974.

FSA No. 42791—*Iron and steel scrap from Anoka, Minnesota*. Filed by Western Trunk Line Committee, Agent (No. A-2693), for interested rail carriers. Rates on iron and steel scrap, in carloads, as described in the application, from Anoka, Minnesota, to East St. Louis and Federal, Illinois; also St. Louis, Missouri.

Grounds for relief—Water and market competition.

Tariff—Supplement 293 to Western Trunk Line Committee, Agent, tariff 5-W, ICC No. A-4565. Rates are published to become effective on February 10, 1974.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 74-1005 Filed 1-11-74; 8:45 am]

[Notice No. 4]

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 February 4, 1974. 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-74803. By order of January 9, 1974, the Motor Carrier Board approved the transfer to Stidham Trucking, Inc., Yreka, Calif., of that portion of the operating rights in Certificate No. MC-111313 issued December 7, 1956, to Senna Trucking Co., Inc., San Leandro, Calif., authorizing the transportation of lumber, from points in Jackson and Josephine Counties, Oreg., to points in California located on and north of a line extending from Santa Barbara, Calif., through Bakersfield to the California-Nevada State Line. Dual operations were approved. E. H. Griffiths, 1182 Market Street, Suite 207, San Francisco, Calif. 94102, registered practitioner for applicants.

No. MC-FC-74811. By order of January 9, 1974, the Motor Carrier Board approved the transfer to Lloyd C. Busbee, Mobile, Ala., of the operating rights in Certificate No. MC-125037 issued October 23, 1970, to Dixie Midwest Express, Inc., Greensboro, Ala., authorizing the transportation of bananas, from Mobile, Ala., and New Orleans, La., to Chicago and Rock Island, Ill., Indianapolis and Terre Haute, Ind., Iowa Falls, Iowa, Louisville, Ky., and Kansas City, Mo., and Clarksville, Tenn. John W. Cooper, 1301 City Federal Building, Birmingham, Ala. 35203, attorney for applicants.

No. MC-FC-74865. By order entered January 8, 1974, the Motor Carrier Board approved the transfer to The Cotter Moving & Storage Company, Akron, Ohio, of the operating rights set forth in Certificate No. MC-77943, issued September 13, 1963, to Action Van Service, Inc., (Alex D. Williams, Trustee in Bankruptcy), Columbus, Ga., authorizing the transportation of household goods, as defined by the Commission, between points in Ohio, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; and between Dayton, Ohio, and points within 25 miles thereof, on the one hand, and, on the other, points in Minnesota, Nebraska, Wisconsin, Missouri, Arkansas, Illinois, Indiana, Kentucky, North Carolina, West Virginia, Maryland, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia. Thomas R. Kingsley, 1819 H Street NW., Washington, D.C. 20006, attorney for applicants.

No. MC-FC-74905. By order entered January 8, 1974, the Motor Carrier Board approved the transfer to Les Mathre Trucking, Inc., Story City, Iowa, of the operating rights set forth in Certificate No. MC-117255 (Sub-No. 2), issued September 4, 1973, to Iowa Refrigerated Express, Incorporated, Altoona, Iowa, authorizing the transportation of meats, meat products, and meat by-products, and articles distributed by meat packing-houses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of *Tama Meat Packing Corporation*, at Tama, Iowa, to points in Illinois, Indiana, Michigan, Minnesota, Nebraska, Ohio, South Dakota, and Wisconsin, restricted to the transportation of shipments originating at the above-described facilities and destined to the above-named destinations. Larry D. Knox, 9th Floor, Hubbell Bldg., Des Moines, Iowa 50309, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 74-1006 Filed 1-11-74; 8:45 am]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

[Notice No. 2]

JANUARY 7, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 C.F.R. 1131) pub-

lished in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 730 (Sub-No. 357 TA), filed December 26, 1973. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 1417 Clay Street, P.O. Box 958, Oakland, Calif. 94612. Applicant's representative: R. N. Coledge (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum distillate fuel oil*, in bulk, in tank vehicles, from Gilsonite (near Fruita), Colo., to Henderson and Las Vegas, Nev., for 180 days. SUPPORTING SHIPPER: Stauffer Chemical Company, 636 California Street, San Francisco, Calif. 94119. SEND PROTESTS TO: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 2392 (Sub-No. 91 TA), filed December 18, 1973. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 "F" Street, P.O. Box 14248, West Omaha Station, Omaha, Nebr. 68114. Applicant's representative: Keith D. Wheeler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions*, in bulk, in tank vehicles, (A) from Doniphan, Nebr., and Kansas City, Mo., to points in Kansas and (B) from Kansas City, Mo., and Kansas City, Kans., to points in Nebraska, for 180 days. SUPPORTING SHIPPER: Agric Chemical Company, P.O. Box 3166, Tulsa, Okla. 74101. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 2392 (Sub-No. 92 TA), filed December 18, 1973. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 "F" Street, P.O. Box 14248, West Omaha Station, Omaha, Nebr. 68114. Applicant's representative: Keith D. Wheeler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transport-

ing: *Anhydrous ammonia*, in bulk, in tank vehicles, from the Terminal located on the ammonia pipeline of Mapeo, Inc., at or near Clay Center, Kans., to points in Iowa, Missouri, and Nebraska, for 180 days. SUPPORTING SHIPPERS: Cominco American Incorporated, Route No. 3, Beatrice, Nebr. 68310, and Farmland Industries, Inc., P.O. Box 7305, Kansas City, Mo. 64116. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 2392 (Sub-No. 93 TA), filed December 20, 1973. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 "F" Street, P.O. Box 14248, West Omaha Station, Omaha, Nebr. 68114. Applicant's representative: Keith D. Wheeler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed and liquid feed ingredients*, in bulk, in tank vehicles, from points in Butler County, Kans., to points in Colorado, Iowa, Missouri, Nebraska, and Oklahoma, for 180 days. SUPPORTING SHIPPER: Con Agra Inc., Great Plains Region, 3801 Harney St., Omaha, Nebr. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 72069 (Sub-No. 4 TA), filed December 20, 1973. Applicant: BLUE HEN LINES, INC., Box 565, R. #3, Milford, Del. 19963. Applicant's representative: Chester A. Zyblut, 1522 "K" Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients*, dry, from Laurel, Del., to points in Caroline, Cecil, Dorchester, Kent, Somerset, Talbot, Worcester, Wicomico, Queen Anne Counties, Md., and points in Accomack and Northampton Counties, Va., for 180 days. SUPPORTING SHIPPER: Charles M. Wright, III, Office Manager, Valliant Fertilizer Company, Box 111, Laurel, Del. 19956. SEND PROTESTS TO: William L. Hughes, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 102616 (Sub-No. 887 TA), filed December 27, 1973. Applicant: COASTAL TANK LINES, INC., 215 East Waterloo Road, P.O. Box 7211, Akron, Ohio 44319. Applicant's representative: James Anand (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diesel fuel*, in bulk, in tank vehicles, between Huron, Ohio; Atlanta, Ga.; Charleston, W. Va.; Dallas, Tex.; Detroit, Mich.; Fort Wayne, Ind.; Grand Rapids, Mich.; Houston, Tex.; Indianapolis, Ind.; Little Rock, Ark.; Louisville, Ky.; Memphis, Tenn.; Nashville, Tenn.; Peoria, Ill.; Roanoke, Va.; and St. Louis, Mo., for 180 days. SUPPORTING SHIPPER: The Kroger Co., 1014

Vine Street, Cincinnati, Ohio 45201. SEND PROTESTS TO: Franklin D. Bail, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 103721 (Sub-No. 23 TA), filed December 19, 1973. Applicant: INDIAN VALLEY BULK CARRIERS, INC., Ridge Road, Tylersport, Pa. 18971. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Slag*, in bulk, from points in Berks County, Pa., to points in Connecticut, Westchester, Nassau, and Suffolk Counties, N.Y., and New York, N.Y., for 180 days. SUPPORTING SHIPPER: John W. Fidler, Jr., President, Birdsboro Slag Products Company, Inc., Box 97, Birdsboro, Pa. 19508. SEND PROTESTS TO: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 103993 (Sub-No. 792 TA), filed December 21, 1973. Applicant: MORGAN DRIVE-AWAY, INC., 2800 W. Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kitchen and bathroom modules*, on undercarriages, from Eaton Rapids, Mich., to points in Grant County, Ind., for 180 days. SUPPORTING SHIPPER: Westinghouse Housing Systems, 501 Marlin, Eaton Rapids, Mich. 48827. SEND PROTESTS TO: District Supervisor J. H. Gray, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne Street, Room 204, Ft. Wayne, Ind. 46802.

No. MC 103993 (Sub-No. 793 TA), filed December 26, 1973. Applicant: MORGAN DRIVE-AWAY, INC., 2800 W. Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from Lincoln Parish, La., to points in Arkansas, Texas, Mississippi, Tennessee, Oklahoma, and Alabama, for 180 days. SUPPORTING SHIPPER: Fuqua Homes of Louisiana, Inc., 2000 McDonald Avenue, Ruston, La. 71270. SEND PROTESTS TO: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Ft. Wayne, Ind. 46802.

No. MC 103993 (Sub-No. 794 TA), filed December 26, 1973. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (Same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*

designed to be drawn by passenger automobiles, in initial movements, from points in Oneida County, N.Y., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, for 180 days. SUPPORTING SHIPPER: Champion Home Builders Co., 5573 E. North St. Dryden, Mich. 48428. SEND PROTESTS TO: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 345 W. Wayne St., Room 204, Ft. Wayne, Ind. 46802.

No. MC 107403 (Sub-No. 872 TA), filed December 27, 1973. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Nickel pellets, in bulk, in tank vehicles, from ports of entry on the United States-Canada International Boundary line situated in the states of New York and Michigan, to Kokomo, Ind.; Baltimore, Md.; Detroit and Muskegon, Mich.; Monroe, N.C.; Dover, Florham Park, and Harrison, N.J.; Lockport and New Hartford, N.Y.; Minerva, Ohio; Albuquerque, N. Mex.; Beaver Falls, Lathrobe, Reading, and Titusville, Pa.; Cypress, Tex.; Waukesha, Wis.; and Huntington, W. Va., for 180 days. RESTRICTION: Restricted to the transportation of shipments having an immediately prior movement in foreign commerce. SUPPORTING SHIPPER: John J. Begley, Traffic Manager, International Nickel Co., Inc., One New York Plaza, New York, N.Y. 10004. SEND PROTESTS TO: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Building, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 107496 (Sub-No. 923 TA), filed December 18, 1973. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, P.O. Box 855, 50309, Des Moines, Iowa 50304. Applicant's representative: E. Check (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid fertilizer solutions, in bulk, in tank vehicles, (1) from Doniphan, Nebr., and Kansas City, Mo., to points in Kansas and (2) from Kansas City, Mo., and Kansas City, Kans., to points in Nebraska, for 180 days. SUPPORTING SHIPPER: Agrico Chemical Company, P.O. Box 3166, Tulsa, Okla. 74101. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 110420 (Sub-No. 695 TA), filed December 26, 1973. Applicant: QUALITY CARRIERS, INC., Malling: P.O. Box 186, Pleasant Prairie, Wis. 53158, and Office: I-94 County Highway C, Bristol, Kenosha County, Wis. 53104. Applicant's representative: Fred H.

Figge (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Fuel oil, in bulk in tank vehicles, from Milwaukee and Sheboygan, Wis., to Detroit, Rawsonville and Romeo, Mich., for 180 days. SUPPORTING SHIPPER: Power Enterprises of Wisconsin, Inc., 3801 Monarch Drive, Racine, Wis. 53401 (Eugene R. Parrelle, President). SEND PROTESTS TO: District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 115695 (Sub-No. 5 TA), filed December 21, 1973. Applicant: SOUTHEAST TRANSPORT CORP., P.O. Box 4057, Savannah, Ga. 31407. Applicant's representative: Virgil H. Smith, 1587 Phoenix Blvd., Suite 12, Atlanta, Ga. 30349. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Iron and steel articles, from the plantsite and warehouse facilities of Valiant Steel and Equipment, Inc., in Chatham County, Ga., to points in Florida, for 180 days. SUPPORTING SHIPPER: Valiant Steel and Equipment, Inc., 1 Hatchover Road, Savannah, Ga. 31402. SEND PROTESTS TO: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202.

No. MC 118270 (Sub-No. 8 TA), filed December 19, 1973. Applicant: PRODUCE TRANSPORT SERVICE, INC., 181 W. Ramapo Avenue, Mahwah, N.J. 07430. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Cereal preparations, from Arcade, N.Y., to Bridgeport, Conn., for 180 days. SUPPORTING SHIPPER: Arcade Industries, Inc., 56 Church Street, Arcade, N.Y. 14009. SEND PROTESTS TO: Joel Morrow, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton St., Newark, N.J. 07102.

No. MC 119489 (Sub-No. 32 TA), filed December 18, 1973. Applicant: PAUL ABLER, doing business as CENTRAL TRANSPORT COMPANY, P.O. Box 249, Norfolk, Nebr. 68701. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid fertilizer solutions, in bulk, in tank vehicles, (1) from Doniphan, Nebr., and Kansas City, Mo., to points in Kansas and (2) from Kansas City, Mo., and Kansas City, Kans., to points in Nebraska, for 180 days. SUPPORTING SHIPPER: Agrico Chemical Company, P.O. Box 3166, Tulsa, Okla. 74101. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 124688 (Sub-No. 12 TA), filed December 20, 1973. Applicant: INDEPENDENT DELIVERY, INC., 1000 S. Weller Street, Seattle, Wash. 98104. Applicant's representative: John M. Delany, 2 Nevada Drive, Lake Success, N.Y. 11040. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Small radio units, television units, phonograph units, sound track units, tape recorder units, and electronic components and parts related thereto, restricted against the transportation of packages or articles weighing in the aggregate more than 150 pounds from one consignor to one consignee on any one day, between Portland, Ore., on the one hand, and, on the other, points in Clark, Cowlitz, and Lewis Counties, Wash.; (2) Ophthalmic goods, lenses, frames, cases, instruments, replacement parts, replacements tools, prescriptions, and related documents, restricted against the transportation of packages or articles weighing in the aggregate more than 50 pounds from one consignor to one consignee on any one day, between Portland, Ore., on the one hand, and, on the other, points in Clark, Cowlitz, and Lewis Counties, Wash.; (3) Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies, and advertising materials moving therewith (excluding motion picture film used primarily for commercial theatre and television exhibition), between Portland, Ore., on the one hand, and, on the other, points in Clark, Cowlitz, and Lewis Counties, Wash.; (4) Small copying machine parts, components, and supplies, such as developer, toner, and paper, restricted against the transportation of packages or articles weighing in the aggregate more than 150 pounds from one consignor to one consignee on any one day, from Portland, Ore., to points in Clark, Cowlitz, and Lewis Counties, Wash.; and (5) Pharmaceuticals, proprietary and prescription drugs and medicines, vaccines, documents and business papers pertaining thereto, restricted against the transportation of packages or articles weighing in the aggregate more than 150 pounds from one consignor to one consignee on any one day, from Portland, Ore., to points in Clark, Cowlitz, and Lewis Counties, Wash., for 90 days. SUPPORTING SHIPPERS: There are approximately 10 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 127577 (Sub-No. 5 TA), filed December 20, 1973. Applicant: D. DONNELLY LIMITED, 191 Murray Street, Montreal, Quebec, Canada. Applicant's representative: W. Norman Charles, 80 Bay Street, Glens Falls, N.Y. 12801. Authority sought to operate as a common

carrier, by motor vehicle, over irregular routes, transporting: *Pig iron*, in bulk, in dump vehicles, from port of entry on the International Boundary line between the United States and Canada at or near Champlain, N.Y., to Mahwah, N.J., restricted to traffic having a prior movement in foreign commerce, for 180 days. SUPPORTING SHIPPER: Abex Corporation, 530 Fifth Avenue, New York, N.Y. 10036. SEND PROTESTS TO: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, P.O. Box 548, Montpelier, Vt. 05602.

No. MC 128030 (Sub-No. 53 TA), filed December 19, 1973. Applicant: THE STOUT TRUCKING CO., INC., P.O. Box 177, R.R. #1, Urbana, Ill. 61801. Applicant's representative: R. C. Stout (Same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* (non-alcoholic) carbonated, flavored or phosphated in containers, from Kansas City, Mo., Longview, Tex., and Memphis, Tenn., to Bloomington, Champaign, Decatur, and Lincoln, Ill.; from Milwaukee, Wis., to Lincoln, Ill., from Bensenville, Ill., to Attica, Ind., from Maywood, Ill., to Terre Haute, Ind.

NOTE.—*Beverages* (non-alcoholic) carbonated, flavored or phosphated in containers, from Maywood, Ill., to Terre Haute, Ind., only, for 180 days.

SUPPORTING SHIPPERS: Mr. R. C. Brentlinger, A-1 Distributors, Inc., 1348 Sycamore, Terre Haute, Ind.; Mr. Ralph S. Little, Little Beverage Company, 103 West Sycamore St., Attica, Ind. 47918; Mr. Gordon S. Breen, Breen Distributing Company, 310 S. Roosevelt Ave., Bloomington, Ill. 61701; Mr. M. N. Maurer, Maurer Distributing Company, 2802 N. Woodford, Decatur, Ill. 62525; Mr. Stuart E. Clark, Clark Distributing Co., 804 N. Elm Street, Champaign, Ill. 61820. SEND PROTESTS TO: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 134467 (Sub-No. 8 TA), filed December 20, 1973. Applicant: POLAR EXPRESS, INC., P.O. Box 691, Springdale, Ark. 72764. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Bldg., Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and commodities* exempt from regulation under section 203 of the Interstate Commerce Act, moving with frozen foods in the same vehicle at the same time, from Shelbyville and Humboldt, Tenn., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Kansas, Maryland, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, Virginia, and Washington, for 180 days. SUP-

PORTING SHIPPER: Tysons Foods, Inc., P.O. Drawer E, Springdale, Ark. 72764. SEND PROTESTS TO: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 135741 (Sub-No. 3 TA), filed December 20, 1973. Applicant: EARL R. MARTIN, P.O. Box 3, East Earl, Pa. 17519. Applicant's representative: John M. Musselman, P.O. Box 1146, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients*, in bulk, in dump vehicles, from Hopewell, Va., to Allentown and Lebanon, Pa., and Baltimore, Md., for 180 days. SUPPORTING SHIPPER: Lebanon Chemical Corporation, P.O. Box 180, Lebanon, Pa. 17042. SEND PROTESTS TO: Robert P. Amerine, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 278 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 136711 (Sub-No. 5 TA), filed December 26, 1973. Applicant: DAVID G. MCCORKLE, doing business as MCCORKLE TRUCK LINE, 616 S. Western Ave., Oklahoma City, Okla. 73125. Applicant's representative: David G. McCorkle (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in open dump trailers, from the plant site of the United Coal Corporation near Inola, Okla., to Cleburne, Tex., for 180 days. SUPPORTING SHIPPER: E. C. Bellatti, Office Manager, Associated Producers Co., 1700 N. Western Ave., Oklahoma City, Okla. 73106. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 240, Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 138835 (Sub-No. 14 TA), filed December 27, 1973. Applicant: EASTERN REFRIGERATED TRANSPORT, INC., P.O. Box 1059, Harrisonburg, Va. 22801. Applicant's representative: Francis W. McInerney, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from the plant site and warehouse facilities of Mrs. Smith's Pie Company at Pottstown and Philadelphia, Pa., to points in Virginia, North Carolina, South Carolina, Kentucky, Tennessee, Ohio, Indiana, Illinois, Missouri, West Virginia, Wisconsin, Minnesota, Iowa, Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island, and returned and *rejected shipments* of the same commodities on return, for 180 days. SUPPORTING SHIPPER: Mrs. Smith's Pie Company, P.O. Box 298, Pottstown, Pa. 19464. SEND PROTESTS TO: Clatin M. Harmon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, Va. 24011.

No. MC 139264 TA, filed December 12, 1973. Applicant: CONTRACT CARRIERS, INC., P.O. Box 444, Ellensburg, Wash. 98926. Applicant's representative: George R. LaBissoniere, 130 Andover Park East, Seattle, Wash. 98188. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Bulk tallow*, liquid or dry, from points in Oregon, Washington, Idaho, and Montana to Seattle and Tacoma, Wash., and Portland, Ore., restricted to traffic for export moving in foreign commerce only, for 180 days. SUPPORTING SHIPPERS: Portland Rendering Co., P.O. Box 17201, Portland, Ore. 97217; Darling-Delaware Corp., Box 454, Yakima, Wash. 98907; Jacob Stern & Sons, Inc., 2900 11th Avenue SW., Portland, Ore. 97201. SEND PROTESTS TO: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Bldg., 319 SW. Pine St., Portland, Ore. 97204.

No. MC 139322 (Sub-No. 1 TA) (CORRECTION), filed December 5, 1973, published in the FEDERAL REGISTER issue of December 27, 1973, and republished as corrected this issue. Applicant: FUSON'S EXPRESS, INC., 8 Carver Circle, Canton, Mass. 02020. Applicant's representative: Frank M. Cushman, 36 South Main Street, Sharon, Mass. 02067. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Misses and womens hanging garments*, in vehicles, especially equipped internally for the transportation thereof, between Touraine Stores, Inc., Warehouse Location, Campanelli Park, Braintree, Mass., and points in New Hampshire and Maine; and *cartoned goods and accessories*, between Braintree, Mass., and points in New Hampshire and Maine, for 180 days. SUPPORTING SHIPPER: Touraine Stores, Inc., Campanelli Park, Braintree, Mass. SEND PROTESTS TO: John B. Thomas, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 150 Causeway Street, Boston, Mass. 02114.

NOTE.—The purpose of this republication is to correct the MC number to No. MC 139322 (Sub-No. 1 TA), in lieu of No. MC 139329 TA which was published in the FEDERAL REGISTER in error.

MOTOR CARRIERS OF PASSENGERS

No. MC 139347 TA, filed December 19, 1973. Applicant: CRAFT TOURS INC., doing business as PLEASURE-CRAFT TOURS, Jefferson Hotel, Richmond, Va. 23211. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in round trip special operations for ski participation, beginning and ending at points in Henrico, Hanover, Chesterfield, Carolina, and Spottsylvania Counties, Va., and the cities of Richmond and Fredericksburg, Va., and extending to Charnita Ski Area, Fairfield, Pa.; Roundtop Ski Area, Lewisburg, Pa.; Canaan

Valley Ski Area, Davis, W. Va.; Camelback Ski Area, Tannersville, Pa.; Tanglewood Ski Area, Tanglewood, Pa.; Blue Knob, Claysburg, Pa.; Seven Springs, Champion, Pa.; Big Boulder, Lake Harmony, Pa.; Elk Mountain, Uniondale, Pa.; Boone Mountain, Boone, N.C.; Beach Mountain, Banner Elk, N.C.; Gatlinburg Ski Resort, Gatlinburg, Tenn.; Sugar Mountain Ski Area, Banner Elk, N.C.; Seven Devils, Boone, N.C.; Wolf Laurel, Mars Hill, N.C.; and Wisp Ski Area, McHenry, Md., for 180 days. **SUPPORTING SHIPPERS:** There are approximately eight statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. **SEND PROTESTS TO:** Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 10-502 Federal Building, Richmond, Va. 23240.

By the Commission.

[SEAL] ROBERT S. OSWALD,
Secretary.
[FR Doc. 74-1007 Filed 1-11-74; 8:45 am]

[Notice No. 3]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 8, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 647 (Sub-No. 11 TA) (Correction), filed December 5, 1973, published in the FEDERAL REGISTER issue of December 27, 1973, and republished as corrected this issue. Applicant: EXHIBITORS SERVICE COMPANY, 85 Helen Street,

McKees Rocks, Pa. 15136. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Perishable foods and foodstuffs*, in vehicles equipped with mechanical refrigeration; (2) (a) *frozen foods* and (b) *foodstuffs* in vehicles equipped with mechanical refrigeration; and (3) *frozen fish and agricultural commodities*, the transportation of which is otherwise exempt from economic regulation under Section 203(b) (6) of the Act in mixed loads with the commodities in (1) above in vehicles equipped with mechanical refrigeration, between points in Allegheny County, Pa., on the one hand, and, on the other, points in Ashland, Ashtabula, Belmont, Carroll, Columbiana, Cuyahoga, Geauga, Harrison, Jefferson, Lake, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, and Wayne Counties, Ohio, for 180 days. **SUPPORTING SHIPPERS:** There are approximately 12 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. **SEND PROTESTS TO:** District Supervisor John J. England, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

NOTE.—The purpose of this republication is to add Medina County, Ohio as a destination point, which was omitted in previous publication.

No. MC 8948 (Sub-No. 107 TA), filed December 20, 1973. Applicant: WESTERN GILLETTE, INC., 2550 East 28th Street, P.O. Box 58267, Vernon Station, Los Angeles, Calif. 90058. Applicant's representative: Carl H. Fritze, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, from points in Maricopa County, Ariz., to San Diego and Chula Vista, Calif., for 180 days. **SUPPORTING SHIPPER:** PSA-ATC, Subsidiary of Pacific Southwest Airlines, Inc., Building No. 1, Brown Field, Chula Vista, Calif. **SEND PROTESTS TO:** District Supervisor Philip Yellowits, Bureau of Operations, Interstate Commerce Commission, 300 North Los Angeles Street, Room 7708, Los Angeles, Calif. 90012.

No. MC 51146 (Sub-No. 347 TA), filed December 20, 1973. Applicant SCHNEIDER TRANSPORT, INC., 2661 South Broadway, P.O. Box 2298, Box zip 54306, Green Bay, Wis. 54304. Applicant's representative: Neil DuJardin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products* (except commodities in bulk), from the facilities of Nicolet Paper Company, Nicholasville, Ky., to Mobile, Ala. and points on and north of U.S. Highway 78 in Alabama; East St.

Louis, Ill., and points on and south of U.S. Highway 460 in Illinois; Evansville, Ind.; Memphis, Tenn., and points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Mississippi, Louisiana, Arkansas, Missouri, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, New Mexico, Colorado, Wyoming, Montana, Idaho, Utah, Nevada, Arizona, California, Oregon, and Washington and (2) *Equipment, materials, and supplies*, used in the manufacture or distribution of paper and paper products (except commodities in bulk), from the destinations named above to the facilities of Nicolet Paper Company, Nicholasville, Ky., for 180 days. **SUPPORTING SHIPPERS:** Nicolet Paper Company, Main Avenue, De Pere, Wis. 54115 (Paul A. Greer, Director of Purchasing and Traffic). **SEND PROTESTS TO:** District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 99653 (Sub-No. 4 TA), filed December 20, 1973. Applicant: VICTORY FREIGHT LINES, INC., 700 39th North, Birmingham, Ala. 35222. Applicant's representative: Thomas A. Flemming, Sr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, in truckload lots, only on flatbed trailers of equipment (open top), which because of size or weight require the use of special equipment, only for a freight forwarder at Section 409 rates regulated under Part IV of the Interstate Commerce Act, (a) from all points on the Tennessee River in North Alabama and East Tennessee, on the one hand, to points in Alabama, Georgia, Florida, South Carolina in and southeast of the counties of Spartanburg, Union, Newberry, Richland, Calhoun, Orangeburg, Colleton, and Charleston; Mississippi in and east of the counties of George, Perry, Forrest, Covington, Simpson, Hinds, Yazoo, Holmes, Leflore, Grenada, Yolobusha, Lafayette, and Marshall; and Tennessee in and south of the counties of Lawrence, Maury, Williamson, Davidson, Wilson, Smith, Putnam, Cumberland, Morgan, Anderson, Knox, and Blount, on the other hand and (b) from points in Jefferson County, Ala., and Cobb, DeKalb, Fulton, and Gwinnett Counties, Ga., to the points listed in (a) above, for 180 days. **RESTRICTION:** Authority sought in this application is to be further restricted to apply only on shipments having initial origin at points in Belmont, Carroll, Columbiana, Cuyahoga, Geauga, Guernsey, Harrison, Jefferson, Lorain, Mahoning, Medina, Monroe, Morgan, Noble, Portage, Stark, Summit, Trumbull, Tuscarawas, and Washington Counties, Ohio; Allegheny, Armstrong, Beaver, Butler, Cambria, Clarion, Clearfield, Fayette, Greene, Indiana, Jefferson, Lawrence, Mercer, Somerset, Venango, Washington, and Westmoreland Counties, Pa.; Brooke, Doddridge, Hancock,

Harrison, Marion, Marshall, Monongalia, Ohio, Pleasants, Preston, Ritchie, Taylor, Tyler, Wetzel, and Wood Counties, W. Va.; Lake and Porter Counties, Ind.; Cook, DuPage, Grundy, Jersey, Madison, Monroe, St. Clair, and Will Counties, Ill.; and those points in Illinois contiguous to the Illinois River which are not located in the previously named Illinois Counties, and points in St. Charles, St. Louis, and Jefferson Counties, Mo., and transported by common carriers subject to Parts I or III of the Interstate Commerce Act to a break-bulk transfer origin point shown in first paragraph. SUPPORTING SHIPPER: Joe M. Hambrick, doing business as I & S Forwarding Company, 2265 Vistamont Drive, Decatur, Ga. 30033. SEND PROTESTS TO: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 111401 (Sub-No. 405 TA), filed December 19, 1973. Applicant: GROEN-DYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, (1) from Fort Wingate, N. Mex., to Globe, Flagstaff, Cottonwood, Congress, Payson, and Prescott, Ariz., and (2) from Edmonson, Tex., to Trinidad and LaJara, Colo., for 180 days. SUPPORTING SHIPPER: Arrow Gas Company, Bob Binns, Sales Manager, P.O. Box 1777, Roswell, N. Mex. 88201. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240, Old P.O. Bldg., 215 NW Third, Oklahoma City, Okla. 73102.

No. MC 113410 (Sub-No. 81 TA), filed December 20, 1973. Applicant: DAHLEN TRANSPORT, INC., 1680 4th Avenue, Newport, Minn. 55055. Applicant's representative: Joseph A. Eschenbacher, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acid Base Detergent*, in bulk, in tank vehicles, from St. Paul, Minn., to St. Louis, Mo., for 180 days. SUPPORTING SHIPPER: Lyon Chemicals—Van Waters & Rogers, 2313 Wycliff St., St. Paul, Minn. 55114. SEND PROTESTS TO: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 448 Federal Bldg. & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 113410 (Sub-No. 82 TA), filed December 20, 1973. Applicant: DAHLEN TRANSPORT, INC., 1680 4th Avenue, Newport, Minn. 55055. Applicant's representative: Joseph A. Eschenbacher, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products*, in bulk, in tank vehicles, from the Minneapolis-St. Paul commercial zone as defined by the Commission, and Pine Bend,

Minn., to points in Iowa, North Dakota, South Dakota, Wisconsin, and the Upper Peninsula of Michigan and (2) *Molten sulphur*, in bulk, in tank vehicles, (A) from Pine Bend, Minn., to points in Iowa, North Dakota, South Dakota, Wisconsin, and the Upper Peninsula of Michigan; and (B) from Superior, Wis., to points in Minnesota and the Upper Peninsula of Michigan, for 180 days.

NOTE.—The Molten Sulphur involved herein is produced by petroleum refineries, and therefore could be construed to be a Petroleum Product. Therefore, if the Commission agrees with this interpretation, applicant requests that part (A) of the paragraph (2) be eliminated. Molten Sulphur does not appear in either the Chemicals or Petroleum Products classification of the descriptions cases.

SUPPORTING SHIPPER: Northwestern Refining Co., Wholly-Owned Subsidiary of Ashland Oil, Inc., P.O. Drawer Nine, St. Paul Park, Minn. 55071. SEND PROTESTS TO: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 448 Federal Bldg. & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 113434 (Sub-No. 60 TA), filed December 21, 1973. Applicant: GRABELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, Mich. 49423. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Holland, Mich., to Nashville, Tenn., and the commercial zone thereof, for 180 days. SUPPORTING SHIPPER: Heinz U.S.A., Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, Pa. 15230. SEND PROTESTS TO: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 113784 (Sub-No. 51 TA), filed December 18, 1973. Applicant: LAIDLAW TRANSPORT LIMITED, 65 Guise Street, Hamilton, Ontario, Canada L8L 4M1. Applicant's representative: David A. Sutherland, 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers*, containing freight all kinds carried on special container chassis of the applicant, between Ports of Entry on the United States-Canada International Boundary line located in Michigan, to the plantsite of Dow Chemical in Midland, Mich., for 90 days. SUPPORTING SHIPPER: Cast North America Limited, One Westmount Square, Montreal, Quebec, Canada. SEND PROTESTS TO: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 612 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 113908 (Sub-No. 297 TA), filed December 21, 1973. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 3180 Glenstone Station, Springfield, Mo.

65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar and vinegar stock*, from Nixa, Mo., to points in Wisconsin, for 180 days. SUPPORTING SHIPPER: Standard Brands, Inc., Midwest Vinegar Sales, 3638 North Broadway, Chicago, Ill. 60613. SEND PROTESTS TO: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 115667 (Sub-No. 7 TA), filed December 20, 1973. Applicant: ARROW TRANSFER CO. LTD., 320 Seymour Blvd., North Vancouver, British Columbia, Canada. Applicant's representative: George R. LaBissoniere, 130 Andover Park East, Seattle, Wash. 98188. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, between Ports of Entry in the United States-Canada International Boundary line at or near Blaine, Lynden, or Sumas, Wash., on the one hand, and points in Oregon and Washington on the other hand, for 180 days. SUPPORTING SHIPPERS: There are approximately 12 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 118060 (Sub-No. 3 TA), filed December 21, 1973. Applicant: INTERMOUNTAIN TRUCK BROKERS, doing business as CAPITOL PACKING CO., a Corporation, 530 Denargo Market, Denver, Colo. 80204. Applicant's representative: Chester Zyblut, 1522 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meat and packing-house products*, frozen and unfrozen, from the plantsite and storage facilities of Rath Packing Co. at Waterloo, Iowa, to points in Massachusetts, Connecticut, Pennsylvania, New Jersey, and the District of Columbia, for 180 days. SUPPORTING SHIPPER: The Rath Packing Co., Sycamore and Elm Streets, Waterloo, Iowa. SEND PROTESTS TO: District Supervisor Herbert C. Ruoff, Bureau of Operations, Interstate Commerce Commission, 2022 Federal Bldg., Denver, Colo. 80202.

No. MC 118806 (Sub-No. 33 TA), filed December 21, 1973. Applicant: ARNOLD BROS. TRANSPORT, LTD., 739 Lagimodiere Blvd., Winnipeg, Manitoba, Canada R2J OT8. Applicant's representative: Daniel C. Sullivan, Suite 1000, 327 South La Salle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over ir-

regular routes, transporting: *Such commodities as are used in the manufacture of buses, from Grand Forks, N. Dak., to the ports of entry on the International Boundary line between the United States and Canada located at Pembina, N. Dak., and Noyes, Minn., for 180 days.* SUPPORTING SHIPPER: Superior Lima Division, Sheller-Globe Corporation, 1200 E. Kibby Street, Lima, Ohio 45802. SEND PROTESTS TO: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 118989 (Sub-No. 101 TA), filed December 21, 1973. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, Wis. 53221. Applicant's representative: Robert H. Levy, 29 South La Salle St., Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware, and caps, covers, and closures for glass containers, from Plainfield, Ill., to points in Milwaukee County, Wis., for 180 days.* SUPPORTING SHIPPER: Kerr Glass Company, P.O. Box 97, Sand Springs, Okla. 74063 (Jack D. Smith, General Traffic Manager). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 123061 (Sub-No. 71 TA), filed December 12, 1973. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, Salt Lake City, Utah 84104. Applicant's representative: Harry D. Pugsley, 400 El Paso Gas Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt in bags and packages, from Silsbee, Utah (near Wendover, to Downieville and Sierra City, Calif. (in Sierra County), for 180 days.* SUPPORTING SHIPPER: Utah Salt Company, Inc., 2150 South 300 West, Salt Lake City, Utah 84115 (G. E. ap Roberts, Vice President). SEND PROTESTS TO: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 125 South State St., 5239 Federal Building, Salt Lake City, Utah 84138.

No. MC 126844 (Sub-No. 23 TA), filed December 26, 1973. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Road, Vineland, N.J. 08360. Applicant's representative: Jacob P. Billig, 1126 16th Street, NW., Suite 300, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bread crumbs, in bags, from the plantsite and facilities of Acme Bread Crumbs Company in Chicago, Ill., to the plantsite and facilities of Progresso Foods in Vineland, N.J., for 180 days.* SUPPORTING SHIPPER: Imasco Foods, 100 Caven Point Road, Jersey City, N.J. 07305. SEND PROTESTS TO: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428

East State Street, Room 204, Trenton, N.J. 08608.

No. MC 127042 (Sub-No. 129 TA), filed December 21, 1973. Applicant: HAGEN INC., 3232 Highway 75 North, P.O. Box 98, Leeds Station, Slou City, Iowa 51108. Applicant's representative: Joseph W. Harvey (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts, from Kansas City, Kans., to Eau Claire, Wis., and Chicago, Ill., and their commercial zones, for 180 days.* SUPPORTING SHIPPER: Jack Polen Beef Co. Inc., 28 North 2nd Street, Kansas City, Kans. 66118. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza Bldg., 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 127047 (Sub-No. 16 TA), filed December 21, 1973. Applicant: ED RACETTE & SON, INC., 5409 North Broadway, Wichita, Kans. 67219. Applicant's representative: John E. Jandera, 641 Harrison, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Component parts for mobile homes and recreational vehicles, from Newton, Kans., to points in Texas, Kansas, Oklahoma, Colorado, Nebraska, North Dakota, South Dakota, Iowa, Minnesota, Missouri, Illinois, and Arkansas and (2) Materials and supplies used in the manufacture of (1) above, from points in Alabama, Georgia, Tennessee, Michigan, Texas, Kansas, Oklahoma, Colorado, Nebraska, North Dakota, South Dakota, Iowa, Minnesota, Missouri, Illinois, and Arkansas to Newton, Kans., for 180 days.* SUPPORTING SHIPPER: Elixir Industries, 520 South Payton, Newton, Kans. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 127777 (Sub-No. 19 TA), filed December 20, 1973. Applicant: MOBILE HOME EXPRESS, INC., P.O. Box 547, Wausau, Wis. 54401. Applicant's representative: Harvey Thomas (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Government-owned mobile homes, originating at HUD staging areas at or near Wilkes-Barre and Mechanicsburg, Pa., and Elmira, N.Y., to HUD storage areas at or near Forest Park, Ga.; Richmond, Ky.; Granite City, Ill.; and Bastrop, Tex., for 180 days.* SUPPORTING SHIPPER: Department of Housing and Urban Development, Director, Emergency Preparedness Staff, 451 7th Street SW., Washington, D.C. 20410. SEND PROTESTS TO: Barney L. Hardin, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 129870 (Sub-No. 18 TA), filed December 21, 1973. Applicant: GAS IN-

CORPORATED, 95 E. Merrimack St., Lowell, Mass. 01853. Applicant's representative: John T. Hildemann, 744 Broad Street Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid methane, in bulk, in cryogenic tank vehicles, (A) between Everett, Mass., and Providence, R.I., and (B) from Providence, R.I., to points in Massachusetts, for 180 days.* SUPPORTING SHIPPER: Cape Cod Gas Co., Whites Path, So. Yarmouth, Mass. SEND PROTESTS TO: Darrell W. Hammons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 150 Causeway St., 5th Floor, Boston, Mass. 02114.

No. MC 133646 (Sub-No. 12 TA), filed December 20, 1973. Applicant: YELLOWSTONE MOLASSES SERVICE, INC., P.O. Box 404, Billings, Mont. 59103. Applicant's representative: William E. O'Leary, P.O. Box 225, Helena, Mont. 59601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses, in bulk, in tank vehicles, and beet pulp pellets, (1) from Billings and Sidney, Mont., to points in Idaho, Nebraska, North Dakota, South Dakota, and Wyoming; (2) from Lovell and Worland, Wyo., to points in Idaho, Montana, Nebraska, North Dakota, and South Dakota; and (3) from Torrington, Wyo., to points in Idaho and Montana, for 180 days.* SUPPORTING SHIPPERS: The Great Western Sugar Company, P.O. Box 5308, Terminal Annex, Denver, Colo. 80217, and Holly Sugar Corporation, P.O. Box 1052, Colorado Springs, Colo. 80901. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 222, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 135034 (Sub-No. 4 TA), filed November 30, 1973. Applicant: KAPE EXPRESS, INC., P.O. Box 486, Bldg. No. 50, Port Clinton, Ohio 43452. Applicant's representative: Mark J. Sheriff, 88 E. Broad Street, Suite 1660, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Plastic bottles (with no caps), except commodities in bulk, from the plantsite of Aim Packaging, a division of U.S. Industries, Inc., at Erie Industrial Park, Erie Township, Ottawa County, Ohio, to Michigan City, Ind.; Detroit and Allegan, Mich.; Milwaukee, Wis.; Chicago and Pekin, Ill.; St. Louis, Mo.; Elizabethton and Lynchburg, Tenn.; Frankfort, Bardstownton, Louisville, and Covington, Ky.; Richmond, Colonial Heights, and Petersburg, Va.; Greenville, S.C.; Atlanta, Ga.; Jacksonville and Miami, Fla.; Pittsburgh, Pa.; and St. Paul, Minn., and between the plantsite of Aim Packaging, a division of U.S. Industries, Inc., at Erie Industrial Park, Erie Township, Ottawa County, Ohio, on the one hand, and, on the other, the plantsite of Aim Packaging, a division of U.S. Industries, Inc., at West Springfield, Mass.; (B) *Plastic pellets, except commodities in bulk, from Hicks-**

ville, L.I., N.Y., and Burlington, N.J., to the plantsites of Aim Packaging, a division of U.S. Industries, Inc., at Erie Industrial Park, Erie Township, Ottawa County, Ohio, and at West Springfield, Mass.; and (C) *Corrugated boxes*, except commodities in bulk, from South Bend, Ind., and Milan, Mich., to the plantsites of Aim Packaging, a division of U.S. Industries, Inc., at Erie Industrial Park, Erie Township, Ottawa County, Ohio, and at West Springfield, Mass., for 180 days. **RESTRICTION:** The operations authorized herein will be limited to a transportation service to be performed under a continuing contract or contracts with Aim Packaging, a division of U.S. Industries, Inc. **SUPPORTING SHIPPER:** Aim Packaging, a division of U.S. Industries, Inc., P.O. Box 278, Port Clinton, Ohio 43452. **SEND PROTESTS TO:** Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 136086 (Sub-No. 2 TA), filed December 20, 1973. Applicant: BACIL GUILLEY, doing business as GUILLEY TRUCKING, 13119 Arrow Route, Fontana, Calif. 92335. Applicant's representative: Milton W. Flack, 4311 Wilshire Boulevard, Los Angeles, Calif. 90010. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel joists*, uncrated, and *parts thereof*, from Fontana, Calif., to points in Arizona, Oregon, Washington, Nevada, and New Mexico, for 180 days. **SUPPORTING SHIPPER:** Great West Steel Industries, Inc., 8434 Almeria Avenue, Fontana, Calif. 92335. **SEND PROTESTS TO:** Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 138104 (Sub-No. 8 TA), filed December 19, 1973. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, Tex. 76106. Applicant's representative: J. Michael Alexander, 136 Wynnewood Professional Bldg., Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), *trailer converter dollies*, *containers*, and *refuse bodies* in secondary truckaway service, between points in Alabama, Arizona, Arkansas, California, Colorado, Georgia, Iowa, Illinois, Indiana, Kansas, Michigan, Missouri, Nebraska, New Mexico, North Carolina, Oklahoma, South Dakota, Tennessee, and Texas, for 180 days. **SUPPORTING SHIPPER:** Fruehauf Corporation, 10900 Harper Avenue, Detroit, Mich. 48232, and Hobbs Trailers, 609 Main Street, Fort Worth, Tex. **SEND PROTESTS TO:** H. C. Morrison, Sr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 138896 (Sub-No. 5 TA), filed December 20, 1973. Applicant: AJAX TRANSFER COMPANY, 550 East Fifth Street South, Box 2, South St. Paul, Minn. 55075. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats*, *meat products*, *meat by-products*, and *articles distributed by meat packinghouses*, as described in Sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and

storage facilities of Flavorland Industries, Inc., Fargo, N. Dak., to Minneapolis-St. Paul, Minn., and Milwaukee, Wis., and their respective commercial zones, for 180 days. **SUPPORTING SHIPPER:** Flavorland Industries, Inc., 1911 Cunningham Drive, Sioux City, Iowa 51107. **SEND PROTESTS TO:** A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 139346 TA filed December 17, 1973. Applicant: IVAN LARRY PERLA, doing business as PERLA TRANSFER & LEASING COMPANY, 204 Meadowlark Court, Dunn, N.C. 28334. Applicant's representative: Patrick H. Pope, 100 E. Cumberland Street, Bank of North Carolina N.A. Bldg., Dunn, N.C. 28334. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ladies garments and dresses on hangers* and (2) *Negotiables, piecegoods and trim items*, related to the garment industry (except commodities in bulk), (1) from points in Lenoir, Cumberland, and Harnett Counties, N.C., to points in Kane County, Ill. and (2) from points in Kane County, Ill., to points in Lenoir, Cumberland, and Harnett Counties, N.C., for 180 days. **SUPPORTING SHIPPERS:** Perla Products Incorporated, 410 Ashe Ave., Dunn, N.C. 28334, and Har-Scott Company, Inc., #1 Stroud Road, P.O. Box 123, Pink Hill, N.C. 28572. **SEND PROTESTS TO:** Archie W. Andrews, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 26896, Raleigh, N.C. 27611.

By the Commission.

[SEAL]

ROBERT S. OSWALD,
Secretary.

[FR Doc.74-1008 Filed 1-11-74;8:45 am]

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PART II

ENVIRONMENTAL PROTECTION AGENCY

■

BUILDERS PAPER AND BOARD MANUFACTURING POINT SOURCE CATEGORY

Effluent Limitations Guidelines

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 431]

EFFLUENT LIMITATIONS GUIDELINES

Builders Paper and Board Manufacturing Point Source Category

Notice is hereby given that effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources set forth in tentative form below are proposed by the Environmental Protection Agency (EPA) for the builders paper and roofing felt subcategory (Subpart A) of the builders paper and board manufacturing category of point sources pursuant to sections 301, 304(b) and (c), 306(b) and 307(c) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314(b) and (c), 1316(b) and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500) (the Act).

(a) *Legal authority*—(1) *Existing point sources.* Section 301(b) of the Act requires the achievement by not later than July 1, 1977, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of the Act. Section 301(b) also requires the achievement by not later than July 1, 1983, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of best available technology economically achievable which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of the Act.

Section 304(b) of the Act requires the Administrator to publish regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of the best practicable control technology currently available and the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedure innovations, operating methods and other alternatives. The regulations proposed herein set forth effluent limitations guidelines, pursuant to section 304(b) of the Act, for the builders paper and roofing felt subcategory (Subpart A) of the builders paper and roofing felt segment of the builders paper and board manufacturing industry category.

(2) *New sources.* Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including,

where practicable, a standard permitting no discharge of pollutants.

Section 306(b) (1) (B) of the Act requires the Administrator to propose regulations establishing Federal standards of performance for categories of new sources included in a list published pursuant to section 306(b) (1) (A) of the Act. The Administrator published in the FEDERAL REGISTER of January 16, 1973 (38 FR 1624), a list of 27 source categories, including the builders paper and board manufacturing category. The regulations proposed herein set forth the standards of performance applicable to new sources for the builders paper and roofing felt subcategory (Subpart A) of the builders paper and roofing felt segment of the builders paper and board manufacturing industry category.

Section 307(c) of the Act requires the Administrator to promulgate pretreatment standards for new sources at the same time that standards of performance for new sources are promulgated pursuant to section 306. Section 431.15 proposed below, provides pretreatment standards for new sources within the builders paper and roofing felt subcategory (Subpart A) of the builders paper and board manufacturing category.

Section 304(c) of the Act requires the Administrator to issue to the States and appropriate water pollution control agencies information on the processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of the Act. The Development Document referred to below provides, pursuant to section 304(c) of the Act, information on such processes, procedures or operating methods.

(b) Summary and basis of proposed effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources.

(1) *General methodology.* The effluent limitations guidelines and standards of performance proposed herein were developed in the following manner. The point source category was first studied for the purpose of determining whether separate limitations and standards are appropriate for different segments within the category. This analysis included a determination of whether differences in raw material used, product produced, manufacturing process employed, age, size, waste water constituents and other factors require development of separate limitations and standards for different segments of the point source category. The raw waste characteristics for each such segment were then identified. This included an analysis of (1) the source, flow and volume of water used in the process employed and the sources of waste and waste waters in the operation, and (2) the constituents of all waste waters. The constituents of the waste waters which should be subject to effluent limitations guidelines and standards of performance were identified.

The control and treatment technologies existing within each segment were

identified. This included an identification of each distinct control and treatment technology, including both in-plant and end-of-process technologies, which are existent or capable of being designed for each segment. It also included an identification, in terms of the amount of constituents and the chemical, physical, and biological characteristics of pollutants, of the effluent level resulting from the application of each of the technologies. The problems, limitations and reliability of each treatment and control technology were also identified. In addition, the non-water quality environmental impacts, such as the effects of the application of such technologies upon other pollution problems, including air, solid waste, noise and radiation, were identified. The energy requirements of each control and treatment technology were determined as well as the cost of the application of such technologies.

The information, as outlined above, was then evaluated in order to determine what levels of technology constitute the "best practicable control technology currently available", the "best available technology economically achievable" and the "best available demonstrated control technology, processes, operating methods, or other alternatives." In identifying such technologies, various factors were considered. These included the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements) and other factors.

The data upon which the above analysis was performed included EPA permit applications, EPA sampling and inspections, consultant reports, and industry submissions.

The pretreatment standards proposed herein are intended to be complementary to the pretreatment standards proposed for existing sources under 40 CFR Part 128. The bases for such standards are set forth in the FEDERAL REGISTER of July 19, 1973, 38 FR 19236. The provisions of Part 128 are equally applicable to sources which would constitute "new sources" under section 306 if they were to discharge pollutants directly to navigable waters, except for § 128.133. That section provides a pretreatment standard for "incompatible pollutants" which requires application of the "best practicable control technology currently available," subject to an adjustment for amounts of pollutants removed by the publicly owned treatment works. Since the pretreatment standards proposed herein apply to new sources, § 431.15 below, amends § 128.133 to require application of the standard of performance for new sources rather than the "best practicable" standard applicable to existing sources under sections 301 and 304(b) of the Act.

(2) Summary of conclusions with respect to the builders paper and roofing

felt subcategory (Subpart A) of the builders paper and board manufacturing category of point sources.

(i) *Categorization.* For the purpose of studying waste treatment and effluent limitations, the builders paper and roofing felt segment of the builders paper and board manufacturing category was considered as one discrete subcategory, primarily based on a consideration of the raw materials utilized, production processes employed, products produced, size and age of mills, waste water characteristics and treatability, and geographical location as outlined in the Development Document for the builders paper and roofing felt segment of the builders paper and board manufacturing category of point sources.

(1) Subpart A. Builders Paper and Roofing Felt Subcategory: This subcategory includes mills which produce the heavy papers used in the construction industry from cellulose fibers derived from waste paper, wood flour and sawdust, wood chips, and rags, without bleaching or chemical pulping.

Builders papers are generally characterized as saturating papers, flooring paper, and deadening papers which are used in the construction and automotive industries. They differ from unstructured roofing felts only in thickness and possible chemical additives added to the process in order to achieve a specific property, i.e., strength, density, wet strength, water repellent capability, or similar physical qualities.

The function of dry roofing felt is to provide a strong, highly absorbent material as support and backing for the bituminous coatings necessary for the waterproofing characteristics essential to the finished product.

(ii) *Waste characteristics.* The significant pollutant parameters in waste waters resulting from the builders paper and roofing felt subcategory, include five-day biochemical oxygen demand (BOD₅), total suspended non-filterable solids (TSS), and pH.

Effluent limitation guidelines and standards of performance are established below to control each of the above pollutants. No limitations have been established for several other waste water pollutants which are considered to be of lesser importance because (a) available data has indicated these pollutants are normally removed when BOD₅ or TSS are removed; (b) they occur in insignificant quantities; or (c) technology is not available to control the pollutant discharges.

(iii) *Origin of waste water pollutants in the builders paper and board manufacturing category.* Builders paper and roofing felt subcategory: Waste water pollutants result primarily from the stock preparation and board manufacturing processes. Losses of fibers and other raw materials occurs in both the "white water" and stock cleaning rejects which are continuously discharged. In addition to these continuous discharges, losses also occur when the unit operations are periodically cleaned. These

cleanups produce surges of both BOD₅ and suspended solids. An additional waste water source is obtained if water is used for cooling or quenching the coating on roofing felts and mica, talc or other solids may result. BOD₅ in such quenching waste waters is of very low or nil levels.

(iv) *Treatment and control technology.* In-plant procedures to control pollution include strict management control over housekeeping and water use practices, minimization of the intake of water by re-use and recirculation of waste waters.

"End-of-process" waste water treatment processes include preliminary screening, primary sedimentation, biological treatment, and some physical-chemical treatment.

Solid waste control should be considered. Solid residue and sludge are potential problems because of the need for periodic disposal. Solid waste must be handled properly to assure that no landfill or associated problems develop.

Waste water treatment and control technologies have been studied for the subcategory of the industry to determine what is (a) the best practicable control technology currently available; (b) the best available technology economically achievable; and (c) the best demonstrated control technology, processes, operating methods or other alternatives.

Best practicable control technology currently available for the subcategory includes one or two stage biological treatment.

Biological treatment is presently employed by less than ten percent of the mills within the builders paper and roofing felt subcategory. Approximately 50 percent of the mills are using municipal treatment systems with an additional 25 percent of the mills in the subcategory having access to municipal treatment systems. Activated sludge and aerated stabilization basins are the two most common biological treatment systems presently in use by mills within this subcategory.

Reduction of pollutant parameters levels by either one- or two-stage biological treatment can achieve the best practicable control technology currently available effluent limitations guidelines. A specific level of effluent quality can generally be achieved by either one- or two-stage biological treatment depending upon the design and operation of the treatment system. Two-stage biological treatment includes systems with two biological treatment units operated in series such as an activated sludge plant followed by an aerated stabilization basin.

Best available control technology economically achievable for all subcategories includes two-stage biological treatment and mixed media filtration with, if necessary, chemical addition and coagulation.

Treatment required to achieve the best available demonstrated control technology, processes operating methods

or other alternatives for new sources is the same as the best available control technology economically achievable.

(v) *Economic impact analysis.* A significant portion (approximately 75 percent) of the industry is using or has access to municipal treatment systems and thus will not be impacted by these guidelines.

The investment cost (August 1971 prices) of meeting the 1977 level of effluent reduction by the use of biological treatment systems for a model mill within the subcategory is estimated to be \$0.92 million with increases in product prices of approximately five percent.

The incremental investment cost (August 1971 prices) of meeting the 1983 level of effluent reduction by the use of biological and physical-chemical treatment systems for a model mill within the subcategory is estimated to be \$0.55 million with increases in product prices of approximately 3.5 percent;

The total investment cost (August 1971 prices) for new mills to meet the new source performance standards for a model mill within the subcategory is estimated to be \$0.73 million.

Non-water quality impacts of the pollution control systems were analyzed and found to be of little consequence. Energy requirements of the industry are relatively low: power required to operate the internal controls and the mechanically aerated biological systems will increase consumption by considerably less than 10.0 percent. Solid wastes from treatment sludges and some odor from treatment systems are encountered, but no substantial impact can be identified.

It should be noted that a precise study of economic impact is difficult due to numerous other economic forces at work within an industry, and because of the great variability experienced from plant to plant in such factors as pollution control costs, profitability, and return on investment. In a study of economic impact such as this, it is difficult to deal with these factors on an individual plant basis.

It is not expected that any significant economic impact would result from imposing the effluent limitations requirements prior to discharge of process waste water pollutants to navigable waters on the covered segments of this category by 1977 (best practicable control technology for most industry segments). Because of this conclusion, the proposed guidelines for 1977, 1983 and new sources are economically achievable. The small price increases projected will probably be fully passed on to the consuming public.

The report entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Builders Paper and Roofing Felt segment of the Builders Paper and Board Manufacturing Point Source Category" details the analysis undertaken in support of the regulations being proposed herein and is available for inspection in the EPA Information Center, Room 227, West Tower, Waterside Mall, Washington, D.C., at all EPA regional offices, and at

State water pollution control offices. A supplementary analysis prepared for EPA of the possible economic effects of the proposed regulations is also available for inspection at these locations. Copies of both of these documents are being sent to persons or institutions affected by the proposed regulations, or who have placed themselves on a mailing list for this purpose (see EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August 6, 1973). An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman.

(c) *Summary of public participation.* Prior to this publication, the agencies and groups listed below were consulted and given an opportunity to participate in the development of effluent limitations guidelines and standards proposed for the builders paper and board manufacturing category. All participating agencies have been informed of project developments. An initial draft of the Development Document was sent to all participants and comments were solicited on that report. The following are the principal agencies and groups consulted: (1) Effluent Standards and Water Quality Information Advisory Committee (established under Section 515 of the Act); (2) All State and U.S. Territory Pollution Control Agencies; (3) Technical Association of the Pulp and Paper Industry; (4) National Council of the Paper Industry for Air and Stream Improvement, Inc.; (5) National Forest Products Association; (6) American Paper Institute; (7) U.S. Dept. of the Treasury; (8) Government of Guam, and Government of Samoa; Trust Territories of the Pacific Islands; (9) Puerto Rico; (10) The Conservation Foundation; (11) American Society of Mechanical Engineers; (12) Hudson River Sloop Restoration, Inc.; (13) Conservation Foundation; (14) Businessmen for the Public Interest; (15) Environmental Defense Fund, Inc.; (16) Natural Resources Defense Council; (17) American Society of Civil Engineers; (18) National Wildlife Federation; (19) Water Pollution Control Federation; (20) Ohio River Valley Sanitation Commission; (21) New England Interstate Water Pollution Control Commission; (22) Delaware River Basin Commission; (23) U.S. Dept. of Health, Education, and Welfare; (24) U.S. Dept. of Commerce; (25) U.S. Dept. of Agriculture; (26) Water Resources Council; and (27) U.S. Dept. of the Interior.

The following organizations responded with comments: U.S. Dept. of the Interior; State of Michigan; State of Illinois; State of California; U.S. Water Resources Council; State of Georgia; and State of Texas.

The comments were highly variable, ranging from full approval to rejection. It must be clearly understood that the treatment technologies used to develop the effluent limitations are alternative systems that have operated satisfactorily.

The primary issues raised in the development of the proposed effluent limitations guidelines and standards of performance and the treatment of these issues herein are as follows:

(1) Some comments were to the effect that the limitations were too stringent and not substantiated by data used in the study. Furthermore, the criticism was made that the sampling program was inadequate and unable to quantify the variability of waste loads. As explained in the Development Document, the degree of effluent reduction required by the applicable limitations currently is being attained by plants in all subcategories. Additionally, established alternative in-plant control and waste treatment procedures are readily available for application by the industry. As also explained in the Development Document, the sampling program was used to supplement and confirm data supplied by the industries (or other sources).

(2) A number of commentors took the position that the limitations were not stringent enough and were developed from only a fraction of the industry discharging to waterways. Limitations required by the implementation of best practicable control technology currently available are less stringent than the limitations for best available control technology economically achievable because the total cost of application of the latter technologies under the time limitations is too large in relation to the effluent reduction benefits to be achieved from such application. A prohibition of discharges to navigable waterways has not been required because technologies of complete water reuse have not been demonstrated.

(3) The criticism was made that the performances of the biological systems used to develop the limitations were based on optimum performance, and that effects of cold weather upon biological treatment were not considered. In most cases the performance represents average results from a full year's operation. The effects of cold weather upon biological treatment efficiencies have been considered, and an allocation has been allowed for mills operating in cold weather. Unfortunately, a large amount of data is lacking, and additional data on treatment system operations during cold weather is desired.

(4) Many commentors criticized the suspended solids guidelines as being too stringent in that biological solids generated in biological treatment of builders paper and roofing felt mill effluents do not flocculate and settle out resulting in relatively high suspended solids in final effluents. Many commentors from industry provided data on suspended solids levels in final effluents and the data was incorporated in revised suspended solids guidelines.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman. Comments on all aspects of the proposed reg-

ulations are solicited. Comments which criticize the adequacy of available data, or which provide additional data, should indicate why consideration of further data is essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing an effluent limitations guideline or standard of performance, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301, 304(b), 306 and 307 of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street, S.W., Washington, D.C. A copy of preliminary draft contractor reports, the Development Document and economic study referred to above, and certain supplementary materials supporting the study of the industry concerned will also be maintained at this location for public review and copying. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

All comments received on or before February 13, 1973 will be considered. Steps previously taken by the Environmental Protection Agency to facilitate public response within this time period are outlined in the advance notice concerning public review procedures published on August 6, 1973 (38 FR 21202).

Dated: December 28, 1973.

JOHN QUARLES,
Acting Administrator.

PART 431—EFFLUENT LIMITATIONS GUIDELINES FOR EXISTING SOURCES AND STANDARDS OF PERFORMANCE AND PRETREATMENT STANDARDS FOR NEW SOURCES FOR THE BUILDERS PAPER AND BOARD MANUFACTURING POINT SOURCE CATEGORY

Subpart A—Builders Paper and Roofing Felt Subcategory

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| 431.10 | Applicability; description of the builders paper and roofing felt subcategory. |
| 431.11 | Specialized definitions. |
| 431.12 | Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable. |
| 431.13 | Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable. |
| 431.14 | Standards of performance for new sources. |
| 431.15 | Pretreatment standards for new sources. |

Subpart A—Builders Paper and Roofing Felt Subcategory

- § 431.10 Applicability; description of the builders paper and roofing felt subcategory.

The provisions of this subpart are applicable to the discharges resulting from

the production of the heavy papers used in the construction industry from cellulose fibers derived from waste paper, wood flour and sawdust, wood chips, and rags without bleaching or chemical pulping.

§ 431.11 Specialized definitions.

For the purpose of this subpart:

(a) the following abbreviations shall have the following meanings: (1) "BOD5" shall mean five-day biochemical oxygen demand; (2) "TSS" shall mean total suspended nonfilterable solids; (3) "kg" shall mean kilogram(s); (4) "kkg" shall mean 1,000 kilograms; and (5) "lb" shall mean pound(s).

(b) Total suspended non-filterable solids (TSS) shall mean TSS as measured by the technique utilizing glass fiber filter disks as specified in *Standard Methods for the Examination of Water and Wastewater* (13th Edition).

§ 431.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged after application of the best practicable control technology currently available by a point source subject to the provisions of this subpart:

| <i>Effluent characteristic</i> | <i>Effluent limitation</i> |
|--------------------------------|---|
| BOD5----- | Maximum for any one day 3.75 kg/kkg of product (7.5 lb/ton). Maximum average of daily values for any period of thirty consecutive days 2.5 kg/kkg of product (5.0 lb/ton). |
| TSS----- | Maximum for any one day 3.9 kg/kkg of product (7.8 lb/ton). Maximum average of daily values for any period of thirty consecutive days 2.5 kg/kkg of product (5.0 lb/ton). |
| pH----- | Within the range of 6.0 to 9.0. |

Additional allocations equal to the above guidelines (excluding pH), are allowed during periods when the waste water temperature within the treatment system is 2°C (35°F) or lower. If 2°C (35°F) is the maximum temperature which occurs in the waste water within the treatment system for one day or for 30 consecutive days, the allocation may be applied to the daily maximum and 30 day maximum guidelines, respectively.

§ 431.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged after application of the best available technology economically achievable by a point source subject to the provisions of this subpart:

| <i>Effluent characteristic</i> | <i>Effluent limitation</i> |
|--------------------------------|---|
| BOD5----- | Maximum for any one day 1.4 kg/kkg of product (2.8 lb/ton). Maximum average of daily values for any period of thirty consecutive days 1.0 kg/kkg of product (2.0 lb/ton). |
| TSS----- | Maximum for any one day 1.55 kg/kkg of product (3.1 lb/ton). Maximum average of daily values for any period of thirty consecutive days 1.0 kg/kkg of product (2.0 lb/ton). |
| pH----- | Within the range of 6.0 to 9.0. |

§ 431.14 Standards of performance for new sources.

The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged reflecting the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard

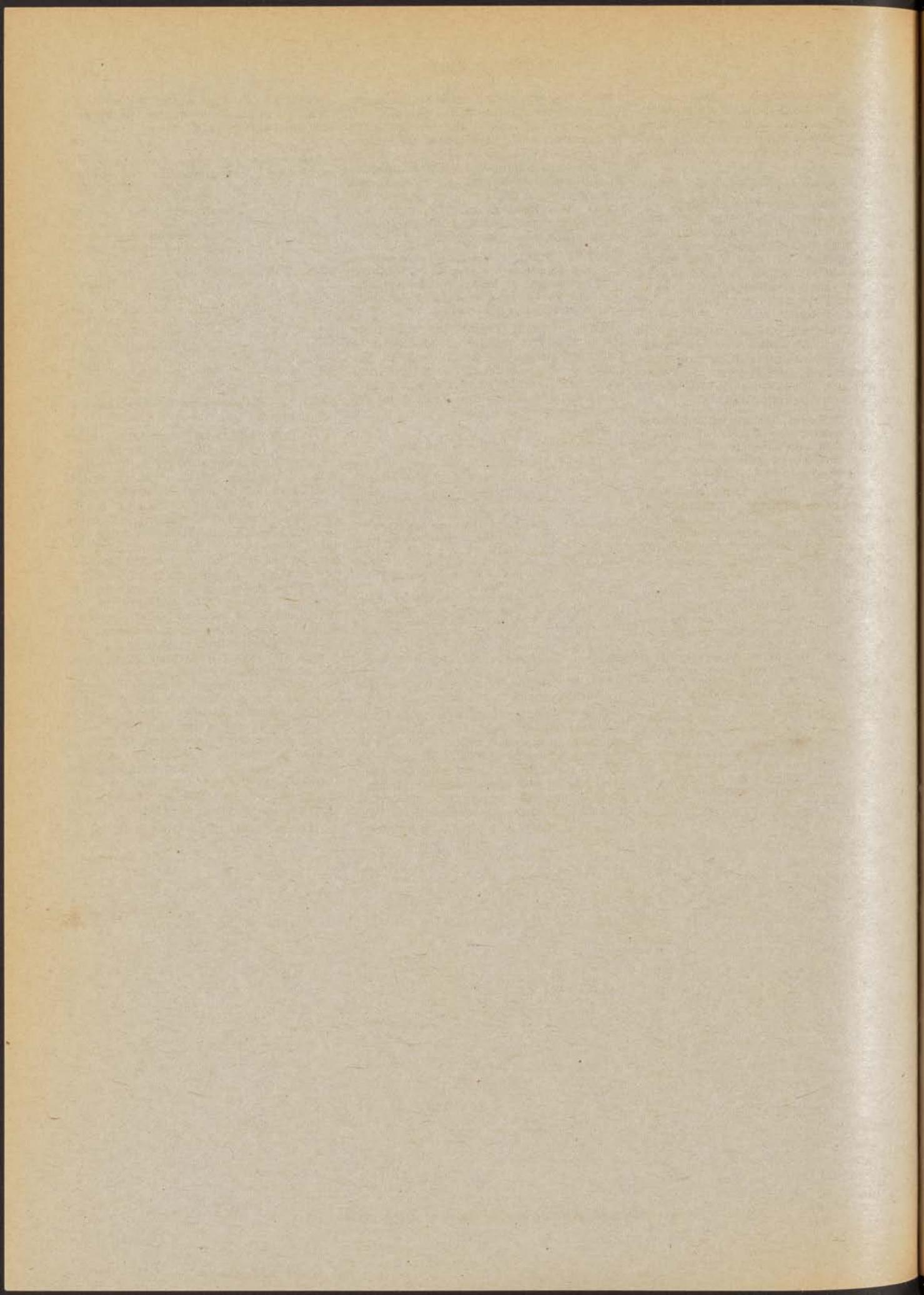
permitting no discharge of pollutants by a new point source subject to the provisions of this subpart:

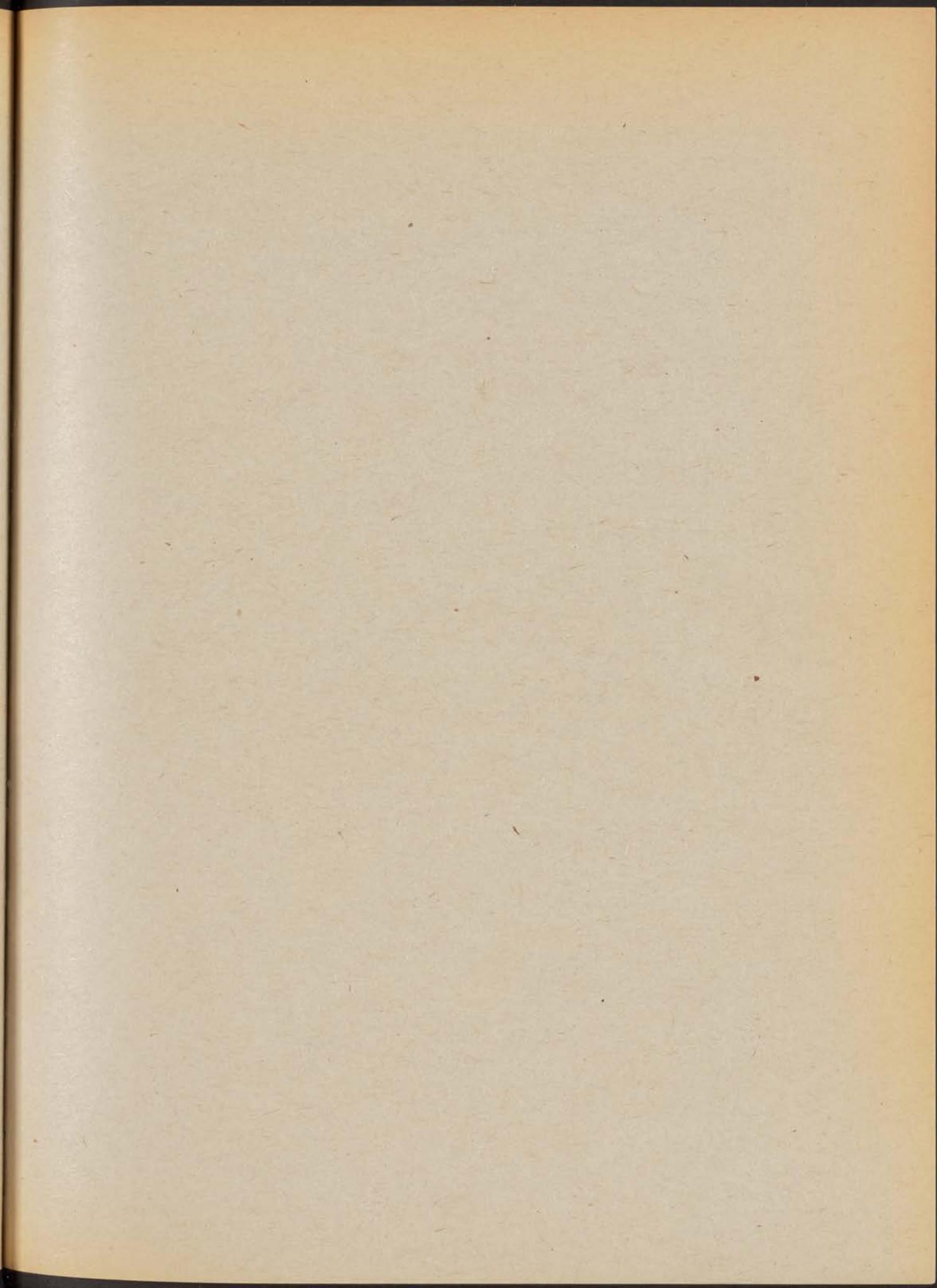
| <i>Effluent characteristic</i> | <i>Effluent limitation</i> |
|--------------------------------|---|
| BOD5----- | Maximum for any one day 1.4 kg/kkg of product (2.8 lb/ton). Maximum average of daily values for any period of thirty consecutive days 1.0 kg/kkg of product (2.0 lb/ton). |
| TSS----- | Maximum for any one day 1.55 kg/kkg of product (3.1 lb/ton). Maximum average of daily values for any period of thirty consecutive days 1.0 kg/kkg of product (2.0 lb/ton). |
| pH----- | Within the range of 6.0 to 9.0. |

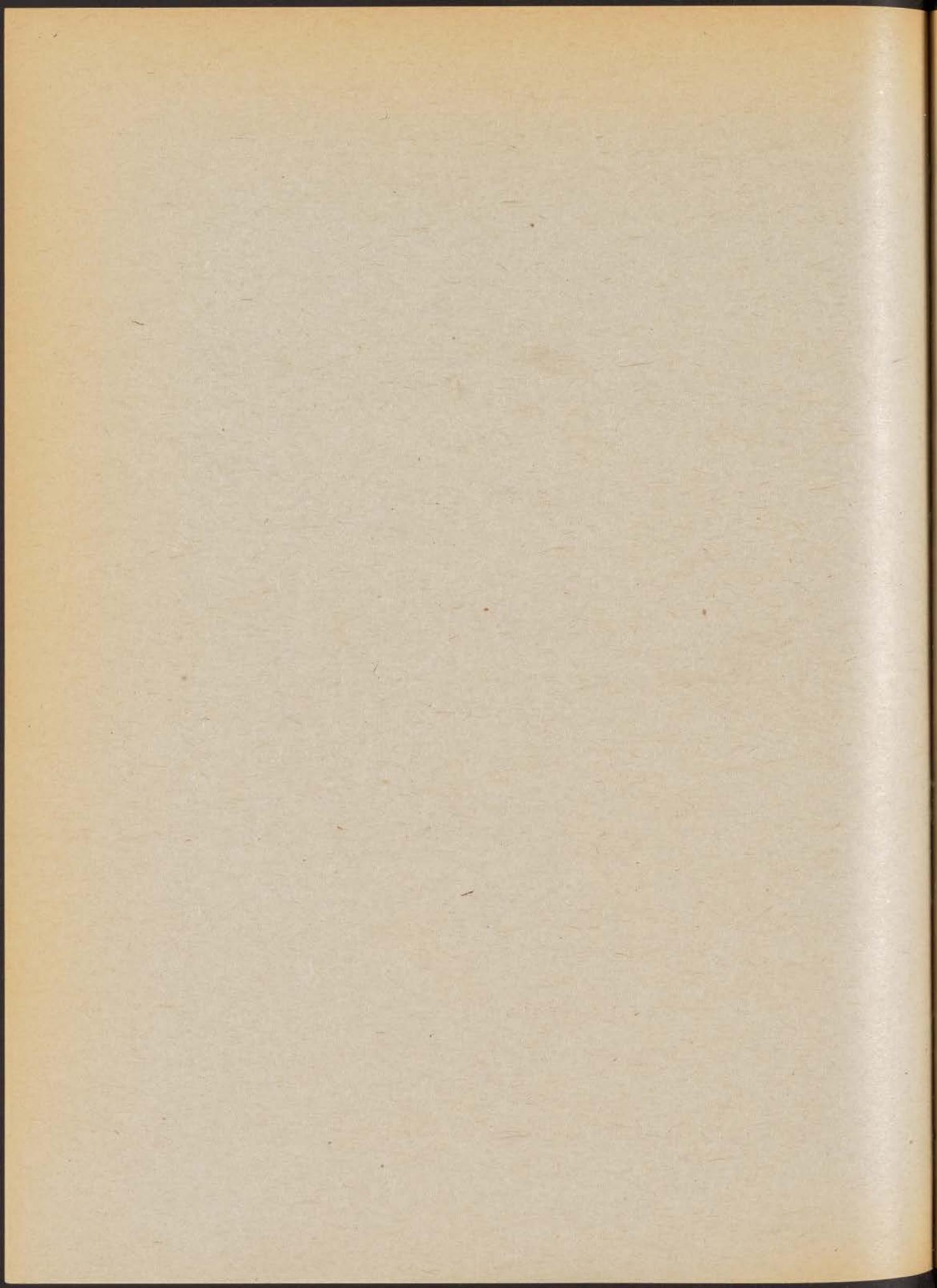
§ 431.15 Pretreatment standards for new sources.

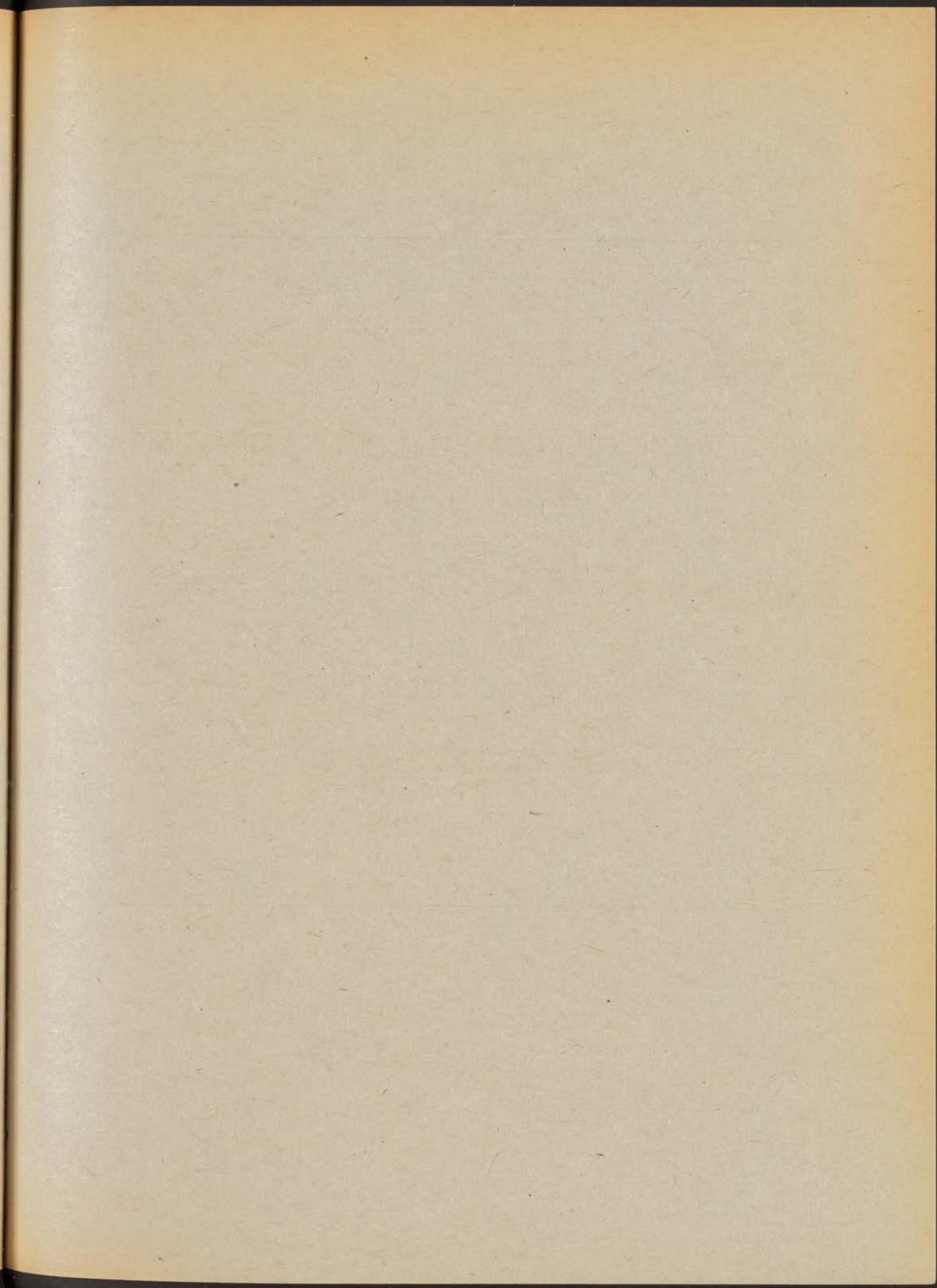
The pretreatment standards under section 307(c) of the Act, for a source within the builders paper and roofing felt subcategory, which is an industrial user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to navigable waters), shall be the standard set forth in Part 128 of this chapter, except that for the purposes of this section, § 128.133 of this chapter, shall be amended to read as follows: "In addition to the prohibitions set forth in § 128.131 of this chapter, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry shall be the standard of performance for new sources specified in § 431.14: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant."

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