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

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PROCLAMATION 4259

International Clergy Week in the United States

By the President of the United States of America

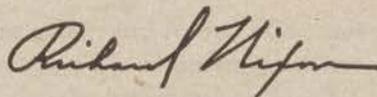
A Proclamation

From the ancient days of the prophets, God has worked through men and women of faith to extend His truth, His love and His peace to other people. Today, as in the time of Abraham, the clergy of the world minister to a world torn between the temporal and the spiritual.

Wherever they can, those who are members of the clergy try to stand fast on the borders between right and wrong, reminding us of both God's judgment and His mercy. They call upon us to choose what we will be, and they challenge us to be more than we have been.

In recognition of the spiritual and social work of the clergy throughout the world, I, Richard Nixon, President of the United States of America, proclaim the week beginning February 3, 1974, as International Clergy Week in the United States. I call upon all our people to honor these servants of God and man through appropriate activities and ceremonies.

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



[FR Doc.74-2311 Filed 1-24-74;2:38 pm]

PROCLAMATION 4260

Amending Part 3 of the Appendix to the Tariff Schedules of the United States With Respect to the Importation of Agricultural Commodities

By the President of the United States of America

A Proclamation

WHEREAS, pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), limitations have been imposed by Presidential proclamations on the quantities of wheat and milled wheat products which may be imported into the United States in any quota year; and

WHEREAS the import restrictions proclaimed pursuant to said section 22 are set forth in part 3 of the Appendix to the Tariff Schedules of the United States; and

WHEREAS, at my request, the United States Tariff Commission has made an investigation under the authority of subsection (b) of section 22 of the Agricultural Adjustment Act to determine whether the import quotas on wheat and milled wheat products provided for in item 950.60 of part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) may be suspended without rendering or tending to render ineffective, or materially interfering with, the loan and payment programs now conducted by the Department of Agriculture for wheat or reducing substantially the amount of products processed in the United States from domestic wheat; and

WHEREAS the United States Tariff Commission has submitted to me a report with respect to this matter; and

WHEREAS, on the basis of such investigation and report, I find and declare that the entry of additional quantities of wheat and milled wheat products resulting from the suspension during the period ending June 30, 1974, of the quantitative limitations provided for in item 950.60 of the TSUS will not render or tend to render ineffective, or materially interfere with, the loan and payment programs now being conducted by the Department of Agriculture for wheat and will not reduce substantially the amount of products processed in the United States from domestic wheat, that the circumstances which required the imposition of such quantitative limitations on wheat and milled wheat products no longer

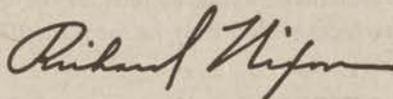
THE PRESIDENT

exist, and that such quantitative limitations should be suspended during the period ending June 30, 1974;

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, acting under and by virtue of the authority vested in me as President, and in conformity with the provisions of section 22 of the Agricultural Adjustment Act, as amended, and the Tariff Classification Act of 1962, do hereby proclaim that headnote 3(a) of part 3 of the Appendix to the Tariff Schedules of the United States is amended by adding a new subdivision as follows:

(ix) Notwithstanding any other provision of this part the quantitative limitations for the articles provided for in item 950.60 shall be suspended during the period beginning January 26, 1974, and ending June 30, 1974. Quantities of such articles entered during the period of May 29, 1974, through June 30, 1974, shall not be deducted from the quantities which may be entered during the twelve month period beginning May 29, 1974, under the quantitative limitations provided for in item 950.60.

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



[FR Doc.74-2396 Filed 1-25-74;12:02 pm]

PROCLAMATION 4261

National MIA Awareness Day

By the President of the United States of America

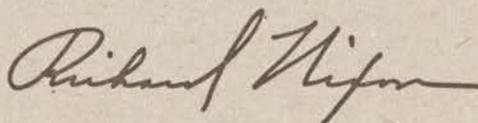
A Proclamation

Over 1,200 Americans are still missing and unaccounted for in Southeast Asia. The bodies of more than 1,100 men who were killed in the same area have never been recovered.

Although the Vietnam Agreement of January 27, 1973, obligates North Vietnam and its allies to account for the missing and to return the remains of those who died, communist authorities have failed to account for our missing, or to return the remains of our dead in the year that has elapsed since the Vietnam Agreement was signed. As a result, the families of our missing men continue to live with the anguish of uncertainty about the fate of their loved ones.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America do hereby designate Sunday, January 27, 1974, as National MIA Awareness Day, a day dedicated to the many Americans who remain missing and unaccounted for in Indochina, and to their families. I call upon all Americans to join on this occasion in expressing the clear, continuing commitment of the American people and their Government to seek the fullest possible accounting for Americans missing in Southeast Asia and the return of the remains of those who died. I also call upon State and local officials and private organizations to observe this day with appropriate ceremonies and activities.

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



[FR Doc. 74-2397 Filed 1-25-74; 12:03 pm]

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MEMORANDUM OF DECEMBER 13, 1973

Eligibility of The Commonwealth
of the Bahamas to Purchase
Defense Articles and Defense
Services under the Foreign
Military Sales Act, as Amended

Memorandum for the Secretary of State

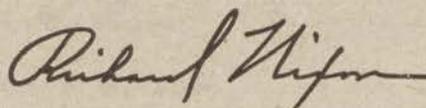
THE WHITE HOUSE,
Washington, December 13, 1973.

[Presidential Determination No. 74-9]

Pursuant to the authority vested in me by Section 3(a)(1) of the Foreign Military Sales Act, as amended, I hereby find that the sale of defense articles and defense services to The Commonwealth of The Bahamas will strengthen the security of the United States and promote world peace.

You are directed on my behalf to report this finding to the Congress.

This finding shall be published in the FEDERAL REGISTER.



[FR Doc.74-2312 Filed 1-24-74;3:09 pm]

MEMORANDUM OF THE COMMISSIONERS
OF THE BUREAU OF THE
DEFENSE AND
MILITARY SERVICE

...

[Handwritten signature]

MEMORANDUM OF DECEMBER 24, 1973

[Presidential Determination No. 74-12]

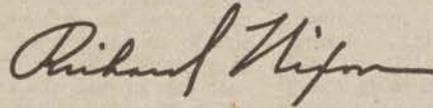
Determination To Authorize the
Ordering of Defense Articles
From Department of Defense
Stocks and Defense Services for
Military Assistance to Cambodia

Memorandum for the Secretary of State

THE WHITE HOUSE,
Washington, December 24, 1973.

Pursuant to the authority vested in me by Section 506(a) of the Foreign Assistance Act of 1961, as amended, I hereby determine that the ordering of up to \$200 million in defense articles from the stocks of the Department of Defense and defense services to provide military assistance for Cambodia is in the security interests of the United States.

This Determination shall be published in the FEDERAL REGISTER.



[FR Doc.74-2317 Filed 1-24-74;3:29 pm]

Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS PART 50—FROZEN VEGETABLES

Establishment of Definitions and Standards of Identity and Quality for Frozen Peas

A notice of proposed rulemaking was published in the FEDERAL REGISTER of October 5, 1972 (37 FR 21106) regarding the "Recommended International Standard for Quick Frozen Peas" hereinafter referred to as the Codex standard and a proposal submitted by the American Frozen Food Institute (AFFI). The Commissioner of Food and Drugs particularly requested comments with available supporting data on certain features of both the Codex standard and the AFFI proposal, which were different. In many respects, however, both the Codex standard and the AFFI proposal were identical.

In response to the request, comments were received from Consumers Union, National Association of Margarine Manufacturers, American Frozen Food Institute, Corn Refiners Association, International Glutamate Technical Committee, and a producer of starch products used in frozen peas. The comments received, concerning both the Codex standard and the AFFI proposal, were as follows:

1. *Sweeteners.* One comment stated that dextrose is a commercial entity in the United States in both the dry and liquid forms and therefore should be provided for as an additional optional nutritive sweetener. This comment also suggested that it may be desirable for the U.S. standard to provide for safe and suitable nutritive sweeteners rather than specific sweeteners. This comment also requested either that dextrose in both the dry and liquid forms be an additional optional sweetener or that all nutritive sweeteners, including the dry and liquid forms, be permitted ingredients under the Codex standard.

The Commissioner does not have the authority to amend the Codex standard; however, he concludes that it would be in the interest of consumers not to restrict the use of nutritive sweeteners to those listed in the proposal, but rather to provide for the use of safe and suitable dry nutritive carbohydrate sweeteners. The liquid nutritive carbohydrate sweeteners are not a suitable ingredient since frozen peas with sauces are considered nonstandardized foods and water is not an ingredient of frozen peas. The Com-

missioner concludes that, pursuant to current FDA policy, the U.S. standard should provide for safe and suitable dry nutritive carbohydrate sweeteners.

2. *Monosodium glutamate.* One comment requested that the United States standard provide, as proposed by AFFI, for the optional use of monosodium glutamate even though the Codex standard presently does not provide specifically for its use. The comment stated that a request will be made to the Codex Alimentarius Commission that the Codex standard be amended to provide for monosodium glutamate as an optional ingredient.

The Commissioner concludes that monosodium glutamate should be an optional ingredient of frozen peas, and is, in fact, already permitted by the Codex standard as a "condiment".

3. *Formulated sauces and garnishes.* Four comments were received regarding formulated sauces (including concentrates) such as butter sauce, onion sauce, and mushroom sauce and garnishes as optional ingredients. One comment from AFFI supported the conclusion of the Commissioner that frozen peas with formulated sauces are nonstandardized foods. A second comment supported the proposal as set forth by AFFI with particular concern that formulated margarine sauce be considered an alternative ingredient to butter sauce. One comment was concerned that the AFFI proposal provides for frozen peas with garnishes and formulated sauces while such products are not included under the Codex standard. It was stated that if frozen peas with garnishes or formulated sauces were regarded internationally as nonstandardized foods, which may be freely traded, there should be no problem, but if the countries which adopted the Codex standard took the position that they would not permit the trade or sale of frozen peas with garnishes or formulated sauces because they are not included under the Codex standard, the effect on international trade would be undesirable and the Codex standard would not accomplish its intended effects.

The Commissioner realizes that certain deviations will exist between the U.S. standards and the Codex standard. In the opinion of the Commissioner as stated in the preamble to the proposal, it will benefit consumers and facilitate international trade to adopt as far as practicable the recommended worldwide standard for quick frozen peas. The procedure established by the Codex Alimentarius Commission for accepting the Codex standard was also discussed in the preamble to the request for comments.

The proposal stated that in the opinion of the Commissioner frozen peas containing more garnish than 20 percent by weight of the finished food would constitute a mixture of two foods and therefore would not be subject to the proposed identity standard. One comment supported this view. Since the Codex standard does not provide for formulated sauces or garnishes as optional ingredients, the Commissioner now concludes that frozen peas with formulated sauces or with any amount of garnish should be considered as nonstandardized foods. Such foods are not subject to this standard and may move freely in interstate commerce when labeled in conformity with the general provisions of the Federal Food, Drug, and Cosmetic Act. In the opinion of the Commissioner, sauces or garnishes, if added, must be in a quantity sufficient to characterize the food; otherwise, the food would be subject to this standard and such sauces or garnishes could not lawfully be added. If sauces or garnishes are added in a sufficient quantity to characterize the food the label of the finished food shall clearly show that it is not the standardized food frozen peas. For example, if a sauce is added the name of the food would be "frozen peas in _____ sauce," the blank to be filed in with the name of the sauce such as "mushroom." Further, if a garnish is added, the name of the food would be "frozen peas with _____" the blank to be filed in with the name of the garnish such as "red peppers." Every word appearing in the name of the food containing sauces or garnishes or both shall appear in the same size and style of type.

4. *Vitamins.* One comment received favored the proposal made by the Commissioner that the standard not provide for the optional addition of vitamins.

5. *Size designation.* One comment took exception to the proposal made on the initiative of the Commissioner that the terms "petite" or "tiny" be used to describe the size of frozen peas (sweet or Alaska) that pass through a sieve with circular openings of 7.14 mm (0.28 in) as is presently the practice for canned peas. It was stated that the sizes designated for the term "petite" or "tiny" by AFFI of 8.75 mm (0.34 in) for sweet green wrinkled peas and 8.2 mm (0.32 in) for smooth-skin peas is more realistic and in accordance with consumer expectations. Moreover, the comment stated, the industry has labeled frozen peas of the size proposed by AFFI "petite" or "tiny" for twenty years without any evidence of consumer complaint or confusion.

The Commissioner concludes that the use of the terms "petite" or "tiny" over such a period of time without evidence of consumer complaint or confusion represents sufficient basis to warrant provision for the optional use of the terms as provided by the petitioner.

6. *Labeling.* No comments were received related to the labeling. The Commissioner concludes that the name of the product is peas and that the term "early", "June", or "early June" shall precede or follow the name in the case of smooth-skin or substantially smooth-skin peas, such as Alaska-type peas. Where the peas are of sweet green wrinkled varieties, the Commissioner concludes the name may include the designation "sweet", "green", "wrinkled", or any combination thereof. Codex states that the name of the product is "peas," except that for sweet green wrinkled varieties it shall be "garden peas" or the equivalent designation used in the country in which the product is intended to be sold. The Commissioner also concludes that the name of the food shall contain the words "frozen" or "quick frozen" as required by Codex and that the name be accompanied by a declaration of any flavoring that characterizes the product as specified in 21 CFR 1.12. In addition the name of the food shall include a declaration of any condiment such as spices and mint leaves that may characterize the product. The Codex standard requires the name of the product to include, when appropriate, a declaration of any seasoning which characterizes the product, e.g., "with _____".

7. *Ingredient statement.* One comment stated that neither the Federal Food, Drug, and Cosmetic Act, nor the Fair Packaging and Labeling Act authorizes the Commissioner to designate specific size of type for the declaration of optional ingredients. It suggested that the declaration should only be required to appear prominently and conspicuously on any appropriate information panel in adequate type size, without obscuring design, vignettes, or crowding. A second comment recommended that label declaration of added spices, seasonings, and flavorings be by common name. Section 403(g) of the Federal Food, Drug, and Cosmetic Act permits label declaration of spices and flavorings as such.

The Commissioner concludes that the declaration of all ingredients shall appear on the label as required by the applicable sections of 21 CFR Part 1.

8. *Pieces of peas and loose skins.* Two comments were received regarding the limitation of 10 percent by weight for pieces of peas and loose skins proposed for consideration by the Commissioner. One comment pointed out that the Codex standard permits a maximum of 15 percent, rather than the stated 12 percent, when no other defects, except extraneous vegetable material, are present. This comment stated that applying the same limitation for pieces of peas and loose skins to frozen peas as that established for canned peas is unrealistic. The basis for this comment is that because of

the perishable nature of raw peas, the peas are ordinarily frozen in bulk as soon as possible after harvesting and delivered to the plant. The subsequent repacking from bulk necessarily results in more pieces of skins and pieces of peas. The "United States Standards for grades of Frozen Peas" issued by the U.S. Department of Agriculture has a 10 percent limitation for pieces of peas and loose skins for Grade A frozen peas, whereas the limitation is 15 percent for Grade C frozen peas. This comment stated that the 14.2 percent requirement contained in the AFFI proposal, was therefore a reasonable and practical compromise for frozen peas. A second comment stated that consumers consider the presence of pieces of peas and loose skins to be indicative of low quality and that both the Codex standard and the AFFI proposal permit excessive amounts of pieces and skins. It was recommended that the maximum be 10 percent for pieces and loose skins based on the drained thawed weight of the peas.

The Commissioner realizes that pieces of peas and loose skins are generally separated from the product prior to freezing of the peas for bulk storage and it would not be practical to subject the frozen peas to a sorting operation to remove the additional pieces of peas and loose skins that result from the freezing and repacking operation. The Codex standard provides that a sample unit (container) shall be deemed defective when any single one of the defects (blond peas, blemished peas, seriously blemished peas, pea fragments, and extraneous vegetable material) is present in more than twice the allowable amount, or if the total allowable defects, exclusive of extraneous vegetable material, exceeds 15 percent by weight. A lot is considered acceptable by the Codex standard when the number of such defectives does not exceed the acceptance number in the sampling plans. No data were submitted in support of the comment that the determination of the percentage of pieces and loose skins should be based on the drained thawed weight of the peas. The Commissioner concludes that the U.S. quality requirements should be consistent with the requirements of the Codex standard, although not precisely the same, and that a lot will be considered acceptable when the number of defectives does not exceed the acceptance number according to the sampling plans that are a part of the definitions for frozen foods.

9. *Blond peas, blemished peas, and seriously blemished peas.* No comments were received related to the tolerances for these defects. The Commissioner concludes that the defect action levels contained in the Codex standard should be a part of the United States quality standard.

10. *Maturity.* One comment considered the allowance of 15 percent overmature peas, determined by the brine flotation test, proposed by AFFI for peas of the sweet green wrinkled variety, to be excessive. It stated that consumers would prefer a product in which no more than 10

percent of the peas are overmature and that commercial packers are capable of producing such packs. No evidence was submitted in support of this comment.

The Commissioner concludes that as a specific test for overmature peas of the sweet green wrinkled varieties not more than 15 percent by count shall sink in a solution containing 16 percent by weight of salt (NaCl). The Codex standard does not have such a requirement, but the Commissioner concludes that the brine flotation test is another objective means of determining the immature nature of the peas and reflects a degree of maturity corresponding to that shown by the alcohol insoluble solids requirement.

11. *Metric system.* The one comment made favored the proposal made on the initiative of the Commissioner that the metric system be used in the standards with the equivalent units of the U.S. Customary System shown parenthetically, except that the metric system alone be used in units of measurements in the methodology.

12. *Sampling plans.* One comment favored the proposed sampling plans but requested the opportunity to comment, or object to any modification which may be made in the sampling plans.

Since the Codex sampling plans have not reached the final step of development and, therefore, may be subjected to modification prior to submission to the United States for formal acceptance, any changes that may be made in the sampling plans contained in a standard for frozen peas will be made by publication in the FEDERAL REGISTER of a proposal to amend the standard, with the usual period allowed for comment on the proposal.

13. *Storage instructions and packing date.* The comment was made that the label of each package of frozen peas should include storage instruction in addition to the date of packing in clear language, readily understood by the consumer in order to assure the consumer of the quality of the product.

In the opinion of the Commissioner, such requirements should not be included as part of the standards for frozen peas. Any decision regarding label declaration of storage instructions and date of packing should involve consideration of all standardized and nonstandardized foods.

14. *Non-vegetable matter.* The comment was made that the Codex standard does not include any quantitative requirements for extraneous non-vegetable matter under either the food hygiene or quality provisions. The use of "commercial practices", it was stated, is not sufficiently explicit to assure the consumer a filth-free product.

The Commissioner concludes that this has no bearing on the U.S. standard since the Codex standard provisions do not automatically apply in this country. The Food and Drug Administration will detain any lot of frozen peas submitted for entry into the U.S. and found to contain "actionable levels" of non-vegetable matter.

15. *Net weight.* One comment objected to the Codex standard having the net

ACCEPTABLE QUALITY LEVEL 6.5

Lot size	Size of container		
Number of primary containers:	Net weight equal to or less than 1 kilogram (2.2 pounds)		
	n	c	
4,800 or less.....	13		2
4,801 to 24,000.....	21		3
24,001 to 48,000.....	29		4
48,001 to 84,000.....	48		6
84,001 to 144,000.....	84		9
144,001 to 240,000.....	126		13
Over 240,000.....	200		19

Number of pounds:	Net weight greater than 1 kilogram (2.2 pounds)		
	n	c	
20,000 or less.....	13		2
More than 20,000 to 100,000.....	21		3
More than 100,000 to 200,000.....	29		4
More than 200,000 to 400,000.....	48		6
More than 400,000 to 600,000.....	84		9
More than 600,000 to 1,000,000.....	126		13
More than 1,000,000.....	200		19

n = number of sample units.
c = acceptance number.

(g) **Acceptable quality level (AQL).** The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.

§ 50.2 Frozen peas; identity label statement of optional ingredients.

(a) **Product definition.** Frozen peas is the food in "package" form as that term is defined in § 1.1(b) of this chapter or in bulk, prepared from the succulent seed of the pea plant of the species *Pisum sativum* L. Any suitable variety of pea may be used. It is blanched, drained, and preserved by freezing in such a way that the range of temperature of maximum crystallization is passed quickly. The freezing process shall not be regarded as complete until the product temperature has reached -18° C. (0° F.) or lower at the thermal center, after thermal stabilization. Such food may contain one, or any combination of two or more, of the following safe and suitable optional ingredients:

- (1) Natural and artificial flavors.
- (2) Condiments such as spices and mint leaves.
- (3) Dry nutritive carbohydrate sweeteners.
- (4) Salt.
- (5) Monosodium glutamate and other glutamic acid salts.

(b) **Size specifications.** If size graded, frozen peas shall contain not less than 80 percent by weight of peas of the size declared or of smaller sizes. The sample unit may not contain more than 20 percent by weight of peas of the next two larger sizes, of which not more than one quarter by weight of such peas may be of the larger of these two sizes, and may contain no peas larger than the next two larger sizes, if such there be. The following sizes and designations shall apply:

Size designation:	Round hole sieve—through which peas will pass	
	Millimeters	Inch
Extra small.....	Up to 7.5.....	0.295
Very small.....	Up to 8.2.....	.32
Small.....	Up to 8.75.....	.34
Medium.....	Up to 10.2.....	.40
Large.....	Over 10.2.....	.40

(c) **Labeling.** The name of the product is "peas". The term "early", "June", or "early June" shall precede or follow the name in the case of smooth-skin or substantially smooth-skin peas, such as Alaska-type peas. Where the peas are of sweet green wrinkled varieties, the name may include the designation "sweet", "green", "wrinkled", or any combination thereof. The label shall contain the words "frozen" or "quick frozen". The name of the food shall include a declaration of any flavoring that characterizes the product as specified in § 1.12 of this chapter and a declaration of any condiment such as spices and mint leaves that characterizes the product, e.g., "Spice Added". Where a statement of pea size is made, such statement shall indicate either the size designation as specified in paragraph (b) of this section or the applicable sieve size. However, the optional descriptive words "petite" or "tiny" may be used in conjunction with the product name when an average of 80 percent or more of the peas will pass through a circular opening of a diameter of 8.75 mm (0.34 in) or less for sweet green wrinkled peas and 8.2 mm (0.32 in) for smooth-skin or substantially smooth-skin peas, such as Alaska-type peas.

(d) **Ingredient statement.** The name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 1 of this chapter.

§ 50.3 Frozen peas; quality; label statement of substandard quality.

(a) The standard of quality for frozen peas is as follows:

(1) Not more than 4 percent by weight blond peas, i.e., yellow or white but edible peas;

(2) Not more than 10 percent by weight blemished peas, i.e., slightly stained or spotted peas;

(3) Not more than 2 percent by weight seriously blemished peas, i.e., peas that are hard, shriveled, spotted, discolored or otherwise blemished to an extent that the appearance or eating quality is seriously affected;

(4) Not more than 15 percent by weight pea fragments, i.e., portions of peas, separated or individual cotyledons, crushed, partial or broken cotyledons and loose skins, but excluding entire intact peas with skins detached;

(5) Not more than 0.5 percent by weight, or more than 12 sq cm (2 sq in) in area, extraneous vegetable material, i.e., vine or leaf or pod material from the pea plant or other such material per

weight determination based on the total contents of the frozen food package which may include any ice that may be frozen with the peas. The comment was made that if the net weight were based upon the thawed products, it would preclude the deception that might be practiced by packers who may include varying weights of ice in their products.

The Commissioner has concluded that compliance for net weight shall be based on the total weight of the frozen contents, since added water is not authorized and any frost in the package results from moisture that has evaporated from the original peas.

In consideration of the comments received and other relevant information, the Commissioner concludes that it will promote honesty and fair dealing in the interest of consumers to establish definitions and standards of identity and quality for frozen peas as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055-1056, as amended, 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120): It is ordered, That 21 CFR Chapter I be amended by establishing Part 50—Frozen Vegetables, consisting at this time of the following three sections:

Sec.

50.1 Definitions.

50.2 Frozen peas; identity; label statement of optional ingredients.

50.3 Frozen peas; quality; label statement of substandard quality.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046, 1055-1056, as amended, 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371; 21 CFR 2.120.

§ 50.1 Definitions.

For the purposes of this part the following definitions shall apply:

(a) **Lot.** A collection of primary containers or units of the same size, type and style manufactured or packed under similar conditions and handled as a single unit of trade.

(b) **Lot size.** The number of primary containers or units (pounds when in bulk) in the lot.

(c) **Sample size.** The total number of sample units drawn for examination from a lot.

(d) **Sample unit.** A container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for the examination or testing as a single unit.

(e) **Defective.** Any sample unit shall be regarded as defective when the sample unit does not meet the criteria set forth in the standards.

(f) **Acceptance number.** The maximum number of defective sample units permitted in the sample in order to consider the lot as meeting the specified requirements. The following acceptance numbers shall apply:

sample unit as defined in paragraph (b) of this section.

(6) The sum of the pea material described in paragraphs (a) (1), (2), (3) and (4) of this section shall not exceed 15 percent.

(7) For peas that meet the organoleptic and analytical characteristics of sweet green wrinkled varieties:

(i) The alcohol-insoluble solids may not be more than 19 percent based on the procedure set forth in paragraph (c) of this section.

(ii) Not more than 15 percent by count of the peas may sink in a solution containing 16 percent salt by weight according to the brine flotation test set forth in paragraph (d) of this section;

(8) For smooth-skin or substantially smooth-skin varieties the alcohol insoluble solids may not be more than 23 percent based on the procedure set forth in paragraph (c) of this section.

(9) The quality of a lot shall be considered acceptable when the number of defectives does not exceed the acceptance number in the sampling plans set forth in § 50.1(f).

(b) The sample unit for determining compliance with the requirements of paragraph (a) of this section other than those of paragraphs (a) (7) (i) and (8) of this section, shall be 500 g (17.6 oz). For the determination of alcohol-insoluble solids as specified in paragraph (c) of this section, the container may be the sample unit.

(1) Extracting solutions:

(i) One hundred parts of ethanol denatured with five parts of methanol volume to volume (formula 3A denatured alcohol), or

(ii) A mixture of 95 parts of formula 3A denatured alcohol and five parts of isopropanol v/v.²

(2) Eighty percent alcohol (8 liters of extracting solutions (1) (i) or (1) (ii) diluted to 9.5 liters with water).

(3) Drying dish—a flat-bottom dish with a tight fitting cover.

(4) Drying oven—a properly ventilated oven thermostatically controlled at $100 \pm 2^\circ \text{C}$.

(5) Procedure—Transfer frozen contents of package to plastic bag; tie bag securely and immerse in water bath with continuous flow at room temperature. Avoid agitation of bag during thawing by using clamps or weights. When sample completely thaws, remove bag, blot off adhering water, and transfer peas to U.S. No. 8 sieve, using (20 cm.) size for container of less than 3 lb. net weight and (30.5 cm.) for larger quantities. Without shifting peas, incline sieve to aid drainage, drain 2 minutes. With cloth wipe surplus water from lower screen surface. Weigh 250 g. of peas into high-speed blender, add 250 g. of water and blend to smooth paste. For less than 250 g. sample, use entire sample with equal weight of water. Weigh 20 g. ± 10 mg. of the paste into 250 ml. distillation flask, add 120 ml. of extracting solutions specified in (1) (i) or (1) (ii) of this section, and reflux 30 minutes on steam or water bath or hotplate. Fit into a buchner fun-

nel a filter paper of appropriate size (previously prepared by drying in flat-bottom dish for 2 hours in drying oven, covering, cooling in desiccator, and weighing). Apply vacuum to buchner funnel and transfer contents of beaker so as to avoid running over edge of paper. Aspirate to dryness and wash material on filter with 80 percent alcohol until washings are clear and colorless.

Transfer paper and alcohol-insoluble solids to drying dish used to prepare paper, dry uncovered for 2 hours in drying oven, cover, cool in desiccator, and weigh at once. From this weight deduct weight of dish, cover, and paper. Calculate percent by weight of alcohol-insoluble solids.

(d) Brine flotation test.

(1) Explanation—The brine flotation test utilizes salt solutions of various specific gravities to separate the peas according to maturity. The brine solutions are based on the percentage by weight of pure salt (NaCl) in solution at 20°C . In making the test the brine solutions are standardized to the proper specific gravity equivalent to the specified "percent of salt solutions at 20°C ." by using a salometer spindle accurately calibrated at 20°C . A 250 ml. glass beaker or similar receptacle is filled with the brine solution to a depth of approximately 50 mm. The brine solution and sample (100 peas per container) must be at the same temperature and should closely approximate 20°C .

(2) Procedure—After carefully removing the skins from the peas, place the peas into the solution. Pieces of peas and loose skins should not be used in making the brine flotation test. If cotyledons divide, use both cotyledons in the test and consider the two separated cotyledons as 1 pea; and, if an odd cotyledon sinks, consider it as one pea. Only peas that sink to the bottom of the receptacle within 10 seconds after immersion are counted as "peas that sink."

(e) If the quality of the frozen peas falls below the standard prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard quality specified in the Code of Federal Regulations but in lieu of the words prescribed in the second line of the rectangle the following words may be used where the frozen peas fall below the standard in only one respect: "Below standard in quality -----" the blank to be filled in with the specific reason for substandard quality as listed in the standard.

Any person who will be adversely affected by the foregoing order may at any time on or before February 27, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm 6-86, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported

by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. Compliance with this order, which shall include any labeling changes required, may begin on March 29, 1974, and all labeling ordered after March 15, 1974, and all labeling used for products shipped in interstate commerce after December 31, 1974, shall comply with this regulation except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be published in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055-1056, as amended by 70 Stat. 919, and 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: January 18, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc. 74-2138 Filed 1-25-74; 8:45 am]

Title 45—Public Welfare

CHAPTER VI—NATIONAL SCIENCE FOUNDATION

PART 640—ENVIRONMENTAL IMPACT STATEMENT POLICY AND PROCEDURES

On August 1, 1973 the Council on Environmental Quality (CEQ) issued revised guidelines for the preparation of environmental impact statements (38 FR 20550). Accordingly, on November 15, 1973 the Foundation published in the FEDERAL REGISTER (38 FR 31641) proposed new regulations governing environmental impact statement policy and procedures to accord with the revised CEQ guidelines. Comments on the proposed regulations having been received and analyzed, the regulations have been revised as appropriate, and are now being issued in modified form.

Part 640, Environmental Impact Statement Policy and Procedures, Chapter VI, National Science Foundation, Title 45, Public Welfare, is hereby changed by revising Part 640 to read as follows:

Sec.	Purpose.
640.1	Purpose.
640.2	Policy.
640.3	Scope.
640.4	Responsibilities.
640.5	Implementation.
640.6	Lead time
640.7	Reviews.
640.8	Review process requirements.
640.9	Public information.
640.10	Submission to the Council on Environmental Quality.
640.11	Emergency circumstances.
640.12	Office of Management and Budget.
640.13	Information available within NSF.

AUTHORITY: National Environmental Policy Act of 1969 (Pub. L. 91-190); E.O. 11514 of

March 4, 1970 (35 FR 4247); and the revised Guidelines issued by the Council on Environmental Quality appearing at 38 FR 20550 (40 CFR Part 1500).

§ 640.1 Purpose.

This part describes policy and procedures applicable to National Science Foundation (NSF or the Foundation) actions requiring the preparation of Environmental Impact Statements (EIS) in accordance with the National Environmental Policy Act (NEPA or the Act) of 1969 (Pub. L. 91-190); Executive Order 11514 of March 4, 1970 appearing at 35 FR 4247 (the Executive Order) and revised Guidelines of August 1, 1973 appearing at 38 FR 20550 (the Guidelines), and other instructions issued by the Council on Environmental Quality (CEQ) and the Office of Management and Budget (OMB).

§ 640.2 Policy.

NSF will consider national environmental goals in the formulation of policies, plans and programs. Before undertaking or supporting any major action that may have a significant effect on the environment, the Foundation will, in consultation with other appropriate agencies, assess in detail the potential environmental impact in order that adverse effects may be avoided and environmental quality restored or enhanced, to the fullest extent practicable. This will be done by a thorough examination of the nature of the action under consideration and by consulting the Guidelines. Alternative actions will be explored and both the long and short-range implications will be evaluated to avoid undesirable or unintended consequences for the environment. NSF will prescribe appropriate limiting actions which an NSF awardee will be permitted to take prior to completion and review of a final statement.

§ 640.3 Scope.

(a) As specified in the Act, the Executive Order, and the Guidelines, major actions requiring preparation of an environmental statement include but are not limited to: proposals for legislation and appropriations; new and continuing projects and program activities undertaken directly by NSF or supported in whole or in part through NSF contracts, grants, or other arrangements; and the making, modification, or establishment of regulations, rules, procedures and policy.

(b) The statutory clause "major Federal actions significantly affecting the quality of the human environment" is to be construed with a view to the overall, cumulative impact of a proposed action (even if the impact is localized), related Federal actions and projects in the area, and further actions contemplated. Actions deemed to be significant include those whose impact is likely to be controversial, as well as individual actions of limited impact which, if repeated or continued, would have considerable cumulative impact, constitute a precedent for future actions, represent decisions in

principle for a future major course of action, or consist of several related actions by different agencies.

(c) Significant effects include those that directly and/or indirectly affect human beings through adverse effects on the environment; those that are either beneficial or detrimental; those that degrade the quality of the environment and curtail the range of beneficial uses of the environment and serve short-term goals to the disadvantage of long-term environmental goals; and those which have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial. Significant effects also include secondary effects, as described more fully in 40 CFR 1500.8(a)(3)(ii) of the Guidelines. A precise definition of environmental "significance," valid in all contexts, is not possible. Effects to be considered in assessing significance include but are not limited to those outlined in Appendix II of the Guidelines.

(d) For NSF, the identification of "major Federal actions significantly affecting the environment" is the responsibility of each Directorate and office, to be carried out against the background of its own particular operations. "Major" and "significantly" are intended to imply thresholds of importance and impact that must be met before a statement is required. The action that causes (or may cause) an impact must also be one where there is sufficient Federal control and responsibility to constitute "Federal action," in contrast to cases where such Federal control and responsibility are not present as, for example, when Federal funds are used that have been distributed in the form of general revenue sharing to State and local governments. The making of an award by the Foundation shall be considered a situation where sufficient control and responsibility exists to constitute "Federal action."

(e) As appropriate, NSF shall prepare program statements and statements on a group of interrelated projects. For instance, broad program statements will be required in order to assess the environmental effects of a number of individual actions on a given geographical area (e.g., the Antarctic), or environmental impacts that are generic or common to a series of agency actions (e.g., maintenance or waste handling practices), or the overall impact of a large-scale program, project, or chain of contemplated projects (see Guidelines 40 CFR 1500.6(d)).

(f) Major technology research and development programs, ongoing or to be initiated by the Foundation, will be periodically evaluated by the responsible Directorate to determine when an impact statement is required for such programs. Factors to be considered include the magnitude of Federal investment in the program and/or control in the program, the likelihood of widespread application if the technology were widely applied, and the extent to which continued investment in the new technology is likely to restrict future alternatives. Statements must be written late enough

in the development process to contain meaningful information, but early enough that this information can serve as an input in the decision-making process. Generally, this stage would be reached when the decision to initiate the program is made at the Assistant Director level. Where a statement may ultimately be required, the Directorate shall prepare an evaluation briefly setting forth why a statement is not yet necessary. This evaluation must be periodically updated. In any case, a statement must be prepared for each program before research activities have reached a state of NSF investment or commitment to implementation likely to determine subsequent development or restrict later alternatives. (See 40 CFR 1500.6(d) of the Guidelines.)

§ 640.4 Responsibilities.

(a) *Assistant Director for National and International Programs.* (1) The Assistant Director for National and International Programs (AD/NI) has been designated as the responsible official within the meaning of section 102(2)(C) of the Act and is responsible for implementation of the requirements of the Act as they relate to the preparation of environmental statements. He will consult with other Assistant Directors to collect information relating to activities within their areas of responsibility. He will consult with the Office of the General Counsel concerning legislative actions covered by the Act and for interpretations and other advice regarding the Act, the Executive Order, the Guidelines, and this Part. He will also consult with the Office of Intergovernmental Science and Research Utilization concerning review of environmental statements by State and local agencies. In addition, he will serve as the NSF point of contact for interagency coordination with respect to the Act.

(2) All incoming correspondence from the CEQ related to impact statements and environmental matters should be brought to the attention of AD/NI. AD/NI, if necessary, will request and coordinate replies to such inquiries.

(b) *Committee on Environmental Statements.* (1) Assisting AD/NI is a Committee on Environmental Statements (CES), which meets regularly to discuss areas of operations which may require statements and the preparation and review of statements; to assure that all NSF Directorates are continually examining their programs to identify the potential need for statements; and to assure compliance with the Guidelines and this Part. It assists AD/NI and other ADs in the handling of statements, and in other related matters. The Chairman of the CES has been delegated by AD/NI to serve as point of contact with the CEQ.

(2) Through a review of the Foundation's activities, the NSF Committee on Environmental Statements and the Assistant Directors in consultation with the CEQ may develop more specific criteria and methods for identifying those actions likely to require environmental

statements and those actions likely not to require environmental statements. For those actions likely to require preparation of a statement and those actions that may require preparation of a statement depending on the circumstances, the CES, in consultation with the concerned Directorate, shall identify, where necessary, what basic information needs to be gathered, how and when it is to be assembled and analyzed, and on what basis a decision will be made as to whether or not a statement should be prepared.

(3) The CES shall consist of one representative from each Directorate, OGC, OGPP, RDL, and OEP. At the discretion of AD/NI, representatives of other NSF offices or divisions may be added.

(c) *Other officials.*—(1) *NSF Assistant Directors (ADs).* (i) ADs will inform AD/NI by memorandum of new or modified projects and activities which may have a significant effect on the environment well before final administrative action is undertaken to approve them for support. All ADs will continuously review their programs to determine the need for impact statements and environmental assessments.

(ii) Should an EIS be required, the Directorate in which the activity generating the EIS is assigned shall be responsible for its preparation. The responsible Directorate through the Program Officer shall assure that the draft statement satisfies, to the fullest extent possible, the requirements established for final statements in accordance with section 102(2)(C) of the Act; and that the draft statement is prepared and furnished to the CES as early as possible in the NSF review process to permit NSF decision-makers and outside reviewers to give meaningful consideration to the environmental issues involved. ADs should also keep in mind that such statements are to serve as the means of assessing the environmental impact of proposed agency actions, rather than as a justification for decisions already made. This means that the draft statements on administrative actions should be prepared and circulated for comment prior to the first point of decision in the NSF review process. Draft statements should generally be available to the CES at least 8 months before an activity is scheduled to begin.

(iii) *Existing projects and programs.* ADs have an obligation to reassess ongoing activities (i.e., those which were begun after January 1, 1970, and are continuing to date) to avoid or minimize adverse environmental effects even though the project, program, grant, or contract upon which the activity is based was initiated prior to the approval of the Act on January 1, 1970.

(2) *Program Officer (PO).* (i) Program Officers should be sensitive to proposals and modifications to existing activities which may require an environmental assessment and should contact the proposer for further information with respect to the environmental impact of the proposed activity if the information

provided is deemed insufficient for the Foundation to make a determination.

(ii) Where appropriate, Program Officers will advise the prospective applicant in program announcements, RFPs, and other NSF-prepared brochures of the requirement to furnish information regarding any environmental impact which the applicant's proposal may have. (Directories should also consider making such information a required part of the proposals and related application forms.)

(iii) Initial assessments of the environmental impacts of proposed actions should be undertaken concurrently with initial technical and economic studies and, where required, a draft environmental impact statement should be prepared and circulated for comment in time to accompany the proposal through the NSF review process for such action.

(iv) In cases where the Program Officer is considering recommending an award to an organization or institution, the organization or institution will ordinarily be the source best able to provide information with respect to the environmental impact of the proposed award. Where a Program Officer relies on an NSF awardee or proposer to submit initial environmental information, the PO should outline what is required so that NSF can effectively and independently assess the impacts. The PO is responsible for the scope and content of the draft and final statements.

(v) When more than one agency is involved in an action, consideration should be given to preparation of one statement for all the Federal actions involved. Designation of a single "lead agency" to assume supervisory responsibility for the preparation of the statement should be considered.

(vi) If a Program Officer decides that a grant or proposal leading to a grant has no environmental impact (e.g., a travel grant), no further action is necessary. If a Program Officer decides that (a) a grant or proposal leading to a grant has some environmental impact but that such impact is not significant (see § 640.3(c) for discussion of "significance"), or (b) the proposed action is similar to actions for which NSF has prepared a significant number of impact statements, the Program Officer shall prepare a publicly available record (such as a Memorandum to the File) briefly setting forth this decision and the specific reasons for it. A copy of each such "negative determination" shall be forwarded to the CES, which shall maintain a list of such determinations. This list shall be made available to the public on request.

(d) *Commenting entities.* (1) NSF staff, when submitting comments to offices within the Foundation or to other agencies on proposed actions on the basis of draft environmental statements, should make their comments as specific, substantive, and factual as possible. Comments should be organized in a manner consistent with the draft statement. Emphasis should be on assessment of the environmental impacts of the proposed

action and the acceptability of these impacts on the quality of the environment, particularly as contrasted with the impacts of reasonable alternatives to the action. Comments may include recommendations for modifications to the proposed action and/or new alternatives.

(2) NSF staff should indicate whether any of their projects not identified in the draft statement are related to the proposed action. Also, comments should indicate the nature of any monitoring of the environmental effects of the proposed project that appears particularly appropriate.

(3) Comments requested by NSF from other agencies should follow the same format.

(4) Final statements shall be responsive to the comments received.

(e) *CEQ requests and assistance.* NSF shall respond to requests from the CEQ for reports and other information dealing with Foundation activities arising in connection with implementation of the Act, including requests for the production of either an impact statement or a negative determination that an impact statement is not necessary.

§ 640.5 Implementation.

(a) In such cases where evaluation identifies actions which will have a significant effect on the environment, environmental statements will be prepared by the responsible AD in accordance with section 102(2)(C) of the Act, the Guidelines, and this Part, for review by the CES which shall forward the statement for approval to AD/NI. Every effort should be made to convey the required information succinctly, in a form easily understood, both by the public and public decision makers.

(b) *Requirements for content of environmental statements.* The following points will be covered in draft and final environmental statements:

(1) A description of the proposed or ongoing action, a statement of its purposes, and a description of the environment affected, including summary technical data, maps, and diagrams where relevant, adequate to permit a careful assessment of the potential environmental impact by commenting agencies and the public, shall be set forth. Highly technical and specialized analyses and data should be avoided in the body of the impact statement. They should be attached as appendices or footnoted with adequate bibliographic references. Additional details are contained in the Guidelines, 40 CFR 1500.8(a)(1).

(2) The interrelationships and cumulative environmental impacts of the proposed action and other related Federal projects shall be presented in a statement as well as the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity (Guidelines, 40 CFR 1500.8(6)). This stipulation in essence requires an assessment of the action for cumulative long-term effects from the perspective that each generation is trustee of the environment for

succeeding generations. Any probable adverse environmental effects which cannot be avoided should be summarized in the statement.

(3) The probable environmental impact of the proposed or ongoing action, including impact on ecological systems such as vegetation, wildlife, fish, and other aquatic life, both primary and significant secondary consequences for the environment, should be included in the analysis. This also requires assessment of the proposed action as it affects both the national and international environment (Guidelines, 40 CFR 1500.8(3)(i)(ii)).

(4) Relation to established Federal and local policies. The relation of the proposed action to land use plans, policies, and controls for the affected area shall be explored and described where necessary.

(5) Any probable adverse environmental effects which cannot be avoided (such as water or air pollution, damage to life systems, urban congestion, threats to health, and other consequences adverse to the environmental goals set forth in the Act) must be discussed and an indication given of what other interests and considerations of Federal policy may offset the adverse environmental effects of the proposed action.

(6) Alternatives to the proposed action. The Act requires that an agency "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." A rigorous exploration and objective evaluation of alternative actions that might avoid some or all of the adverse environmental effects, if any, is essential. Sufficient analysis of such alternatives and their costs and impact on the environment should accompany the proposed action through the NSF review process in order not to foreclose prematurely options which might have less detrimental effects. NSF should consider, where appropriate, alternative designs or details of its proposed actions which will significantly conserve energy (Guidelines, 40 CFR 1500.8(a)(4)), NSF should also consider as an alternative the cancellation of the project.

(7) Commitment of resources. Any irreversible and irretrievable commitments of resources (e.g., natural, monetary and cultural resources), which would be involved in the proposed action should be identified. This point requires identification of the extent to which the action curtails the range of beneficial uses of the environment.

(8) Response to review comments. Where appropriate, a discussion of problems and objections raised by other Federal agencies, State and local entities, and private organizations and individuals in the review process and the disposition of the issues involved should be set forth.

(9) Summary sheet. Appendix I to the Guidelines prescribes the form of the summary sheet which must accompany each draft and final environmental statement.

(c) *Supportive studies.* The responsible Directorate shall examine carefully the basis on which supportive studies have been conducted to assure that such studies are objective and comprehensive in scope and in depth.

(d) *Additional criteria.* The Act requires that the decision making involved "utilize a systematic interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts." If such disciplines are not represented on the NSF's staff, appropriate use should be made of relevant staffs of Federal, State, and local agencies, and universities. The credibility of team members who write a statement may be questioned if all are from a single institution, business, or government agency.

§ 640.6 Lead time.

Lead time of at least eight months should be allowed prior to the first action having a significant environmental impact, so that draft and final statements may be prepared and distributed before a program or project gets under way.

§ 640.7 Reviews.

(a) *Federal agency review.* (1) Appendix II of the Guidelines has divided areas of environmental impact into three major categories: (i) Pollution, (ii) energy supply and natural resources development, and (iii) land use and land management, and have indicated Federal agencies and Federal-State agencies with special expertise in these categories. Accordingly, the advice and comment of the appropriate component(s) of agencies listed in Appendix II will be requested.

(2) When appropriate, the consultation requirements of the Fish and Wildlife Coordination Act, 16 USC 661 et seq., and the National Historic Preservation Act of 1966, 16 USC 470 et seq., shall also be met.

(b) *Time limits.* A time limit of not less than forty-five (45) days is established for comments on the draft EIS, after which it may be presumed that the agency or party consulted has no comment to make. Extensions of up to fifteen (15) days may be given by the Chairman of the CES. In determining an appropriate period for comment, the nature of the statement and the extent of public interest should be considered.

(c) *Water quality aspects.* With respect to water quality aspects of a proposed action which have been certified previously by the appropriate State or interstate organization as being in substantial compliance with applicable water quality standards, the comment of the Environmental Protection Agency (EPA) should also be requested.

(d) *EPA review and applicability of section 309 of the Clean Air Act, as amended.* An agency action relating to air or water quality, noise abatement and control, pesticide regulation, solid waste disposal, generally applicable environmental radiation criteria and standards, or other provisions of the authority of the Administrator of the Environmental

Protection Agency must be submitted to the Administrator for his review and comment in writing. This requirement includes proposals for new Federal construction projects and other major agency actions governed by section 102(2)(C) of the National Environmental Policy Act, as well as proposed legislation and regulations, whether or not section 102(2)(C) applies. Copies of draft and final statements shall, in all cases, be sent to the EPA.

(e) *State and local review.* Review of the proposed action by the appropriate State and local environmental agencies will utilize procedures established by OMB Circulars No. A-85 and A-95, when applicable. Where these procedures are not appropriate, and where a proposed action affects matters within their jurisdiction, review of the draft environmental statement by State and local agencies will be obtained by NSF by distributing the draft to the appropriate State, regional and metropolitan clearinghouses, unless the Governor of the State involved has designated some other point for furnishing this review.

§ 640.8 Review process requirements.

(a) The review of draft environmental impact statements by Federal agencies (including the Environmental Protection Agency), State and local agencies, and private organizations and individuals will commence immediately upon the receipt of a draft statement. Whenever practicable, no administrative action subject to section 102(2)(C) shall be taken sooner than 90 days after a draft environmental statement is circulated for comment, furnished to the Council on Environmental Quality, and made available to the public. Further, no such administrative action shall be taken sooner than 30 days after the final text of the environmental statement together with comments received in the review process, has been made available to the CEQ, the EPA, and to the public; however, these two periods may run concurrently.

(b) A Directorate may at any time supplement or amend a draft or final environmental statement, particularly when substantial changes are made in the proposed action, or significant new information becomes available concerning its environmental aspects. The CES will consult with the CEQ on whether or not the statement should be recirculated.

(c) The minimum period for review of an impact statement is calculated from the date of publication in the FEDERAL REGISTER of the Council's listing notifying the public of issuance of the impact statement.

(d) CES will send copies of final statements with comments attached to all parties who filed substantive comments on the corresponding draft statement. The final impact statements and comments should accompany the proposal through the normal review processes.

§ 640.9 Public information.

(a) *Policy.* In accordance with the terms of the Act and of the Executive

Order, NSF will undertake to insure the fullest practicable provisions for timely public information and understanding—including notification through regional and/or local media where appropriate—in order to obtain the views of interested parties.

(b) *Hearings.* The Foundation will consider the appropriateness of public hearings in the preparation of an environmental impact statement. Draft environmental statements on which a hearing is to be held shall be made available to the public at least fifteen (15) days prior to the time of such hearings.

(c) *Availability to the public.* (1) Availability of a draft environmental statement shall be announced at the earliest possible date after completion of the statement. Copies shall be made available to all organizations and individuals that request an opportunity to comment.

(2) Materials to be made available to the public shall be provided without charge to the extent practicable, or at a fee which is not more than the NSF's actual cost of reproducing copies required to be sent to other Federal agencies, including the CEQ.

(3) CES will: (i) Maintain a list of administrative actions for which environmental statements are being prepared; (ii) revise the list at regular intervals, based on input from Directorates, and send revisions to the CEQ; and (iii) make the list available for public inspection on request. The public shall also be appraised of NSF determinations that impact statements are not required, in the same manner as provided for lists of statements in preparation. (Guidelines, 40 CFR 1500.6(e)).

§ 640.10 Submission to the Council on Environmental Quality.

As soon as possible after preparation, ten (10) copies of the draft environmental statement, five (5) copies of all comments made thereon, and ten (10) copies of the final environmental statement, together with all comments received thereon, will be filed with the Council on Environmental Quality. In addition, any comments requested of the Foundation on an action by another agency having an environmental impact will be forwarded in ten (10) copies to the Council at the time the comments are submitted to the responsible agency. At the same time that copies of draft and final statements are sent to the Council, copies should also be sent to relevant commenting entities as set forth in 40 CFR 1500.9 and 1500.10(b) of the Guidelines. The Chairman of the CES will be responsible for such submittals to the CEQ.

§ 640.11 Emergency circumstances.

Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of the guidelines concerning minimum periods for agency review and advance availability of statements, the CES will consult with the CEQ about alternative arrangements

(Guidelines, 40 CFR 1500.11(e)). Similarly, where there are overriding considerations of expense to the Government or impaired program effectiveness, the CES should consult with the CEQ on appropriate modifications of the designated minimum periods.

§ 640.12 Office of Management and Budget.

(a) OMB Bulletin No. A-11, dated June 22, 1973, subject: "Preparation and Submission of Budget Estimates", establishes procedures for submitting data on environmental programs to OMB. Section 52.1 (page 95) of the Circular indicates the type of budget data which must be submitted on an annual basis to AD/A for consolidation by OBPA and transmittal to OMB.

§ 640.13 Information available within NSF.

To assist Foundation staff in preparing environmental impact statements, copies of the National Environmental Policy Act, Executive Order 11514, the CEQ Guidelines, the OMB Bulletin, and draft and final environmental impact statements and related materials are available from the CES.

Dated: January 23, 1974.

H. GUYFORD STEVER,
Director.

[FR Doc.74-2219 Filed 1-25-74; 8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7292]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Special Rules for Determining Foreign Tax Credit

Correction

A correction to FR Doc. 73-25404 (38 FR 33290, Dec. 3, 1973) appeared on page 34802 of the issue for Wednesday, December 19, 1973. In item 2e of this correction, "Sec. 904(f) interest.....10" was inserted into the table under Example 1 in § 1.904-4(e)(1)(iv). The figure "10" should be deleted from this inserted line.

Title 7—Agriculture

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

PART 29—TOBACCO INSPECTION

Miscellaneous Amendments

On August 19, 1972, the Civil Service Commission published in the FEDERAL REGISTER (37 FR 16787) a rule changing the title of hearing examiner, as used in 5 CFR Part 930, Subpart B, to administrative law judge. To incorporate this, and related technical changes to Subpart A of 7 CFR Part 29 under the Tobacco Inspection Act (49 Stat. 731 et

seq., as amended; 7 U.S.C. 511 et seq.), and pursuant to the authority contained in section 14, 49 Stat. 734, as amended, 7 U.S.C., 511 m and 62 Stat. 1070, as amended; 15 U.S.C. 714b, Subpart A is hereby amended as follows:

§ 29.1 [Amended]

1. Amend § 29.1 as follows: Paragraphs (g), (h), and (i) are redesignated as paragraphs (h), (i) and (j), respectively. A new paragraph (g) is added which shall read as follows:

(g) "Hearing Officer" means any administrative law judge appointed pursuant to 5 U.S.C. 3105, and assigned to the proceeding involved, or such other employee of the Department of Agriculture as the Secretary may designate to act as hearing officer at such hearing.

§ 29.3 [Amended]

2. Amend § 29.3 as follows: Wherever the term "presiding officer" appears, the term "Hearing Officer" is substituted therefor. Paragraph (d) of § 29.3 is revised to read as follows:

(d) *Hearing officer.* A hearing officer shall preside over each such hearing. The hearing officer shall determine the order of procedure at the hearing, shall have power to administer oaths and affirmations, to rule on and admit evidence, and, following the opening of the hearing, to recess the hearing to such other times and places as he deems desirable or necessary.

Effective date. The foregoing amendments and revisions shall become effective January 28, 1974.

(Sec. 14, 49 Stat. 734, as amended; 7 U.S.C. 511m and 62 Stat. 1070, as amended, 15 U.S.C. 714b)

Done at Washington, D.C., this 22d day of January, 1974.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.74-2200 Filed 1-25-74; 8:45 am]

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

PART 240—CASH IN LIEU OF COMMODITIES

Regulations are hereby issued under section 6 of the National School Lunch Act, as amended by Public Law 93-150, approved November 7, 1973.

As amended, section 6 authorizes, in part, cash payments in lieu of USDA agricultural commodities and other foods donated under Part 250 of this chapter whenever the estimated value of such donations to be delivered in any fiscal year is less than 90 per centum of the value of such donations initially programmed for such fiscal year.

Since this part sets forth standards which are for the most part prescribed by law, the Department believes that proposed rulemaking and public participation procedure is impracticable and unnecessary.

A new Part 240, reading as follows, is added to 7 CFR Chapter II:

- Sec.
- 240.1 General purpose and scope.
- 240.2 Definitions.
- 240.3 Apportionment of funds.
- 240.4 Method of making payments to States.
- 240.5 Use of funds.
- 240.6 Payments to school food authorities.
- 240.7 Records and reports.

AUTHORITY: Sec. 10, Pub. L. 89-642, 80 Stat. 889, as amended (42 U.S.C. 1779); sec. 6, Pub. L. 79-396, 60 Stat. 231, as amended (42 U.S.C. 1755).

§ 240.1 General purpose and scope.

This regulation prescribes the methods for the payment, disbursement and accountability of funds made available under subsections (b), (c) and (d) of section 6 of the National School Lunch Act, as amended (42 U.S.C. 1755).

§ 240.2 Definitions.

The terms used in this regulation shall have the meanings ascribed to them in the regulations governing the National School Lunch Program (7 CFR Part 210) and the School Breakfast Program (7 CFR Part 220).

§ 240.3 Apportionment of funds.

(a) As of February 15 of each fiscal year, the Secretary shall make an estimate of the value of agricultural commodities and other foods that will be delivered during the fiscal year to States for school food service programs under the provisions of this section, section 416 of the Agricultural Act of 1949, and section 32 of the Act of August 24, 1935. If such estimated value is less than 90 percentum of the value of such deliveries initially programmed for that fiscal year, the Secretary shall determine the difference between the value of such deliveries initially programmed and the estimated value as of February 15 of the commodities and other foods to be delivered in such fiscal year. The Secretary shall pay to each State agency a share of funds so determined which shall bear the same ratio to the total of such funds as the number of meals, meeting the requirements of § 210.10 of Part 210 of this Chapter and § 220.8 of Part 220 of this Chapter which were served to children in schools in the State which participated in the lunch and breakfast programs under the National School Lunch Act and the Child Nutrition Act of 1966, during the preceding fiscal year, bears to the total of all such meals served in all the States during such fiscal year: *Provided, however,* That in any State in which FNSRO administers school food service programs in the nonprofit private schools, the Secretary shall withhold from the funds so determined an amount that bears the same ratio to the total of such funds as the number of meals, meeting the requirements of § 210.10 of Part 210 of this chapter and § 220.8 of Part 220 of this chapter, served in nonprofit private schools in such State during the preceding fiscal year bears to the total of such meals served in all the schools in such State in such fiscal year.

§ 240.4 Method of making payments to States.

(b) Funds apportioned to any State agency under § 240.3 shall be paid by means of Treasury Department checks by March 15 of the fiscal year for which such funds are made available. Funds received by the State agencies pursuant to this part shall not be subject to the matching provisions of § 210.6 of Part 210 of this chapter.

§ 240.5 Use of funds.

Any funds made available to school food authorities under this part shall be used only to obtain agricultural commodities and other foods for use during the fiscal year in which the funds are made available in the food service programs of those schools under this jurisdiction which participate in the lunch and breakfast programs under the National School Lunch Act and the Child Nutrition Act of 1966. Such food shall be limited to that necessary to meet the requirements set forth in § 210.10 of Part 210 of this Chapter and § 220.8 of Part 220 of this Chapter. A school food authority of a school which did not obtain agricultural commodities or other foods, for the fiscal year for which funds are made available, because it operates a food service under a contract with a food service management company or for any other reason, shall not receive a share of such funds.

§ 240.6 Payments to school food authorities.

Each State agency, or FNSRO where applicable, shall promptly and equitably disburse any funds received under § 240.5 of this part to the school food authorities under their administration. On or before disbursing funds to school food authorities, State agencies and FNSROs shall notify them of the reason for the special disbursement, the purpose for which these funds may be used and, if possible, the amount of funds they will receive.

§ 240.7 Records and reports.

Each State agency shall: (1) Maintain records and reports on the receipt and disbursement of funds made available under this section and shall retain them for a period of three years after the end of the fiscal year to which they pertain; (2) submit monthly reports to FNS on a form prescribed by FNS, reflecting the status of the receipt, disbursement and expenditure of such funds, until such time as all of the school food authorities have reported that the funds received under § 240.6 have been expended for food which meets the requirements set forth in § 210.10 of Part 210 of this chapter and of § 220.8 of Part 220 of this chapter; and (3) establish such controls and procedures to assure that the funds made available under § 240.6 are not included in determining the State's matching requirements prescribed in § 210.6 of Part 210 of this chapter and that the cost of food purchased with such funds is not included in the costs used to determine the amount of

reimbursement to be paid under Parts 210 or 220 of this chapter.

Effective date: February 1, 1974.

Dated: January 23, 1974.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.74-2165 Filed 1-25-74;8:45 am]

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

[Navel Orange Reg. 308, Amdt. 1]

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

Limitation of Handling

This regulation increases the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period January 18-24, 1974. The quantity that may be shipped is increased due to improved market conditions for Navel oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Navel Orange Regulation 308 39 FR 2101). The marketing picture now indicates that there is a greater demand for Navel oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Navel oranges to fill the current market demand thereby making a greater quantity of Navel oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5

U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Navel oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1)(i) of § 907.608 (Navel Orange Regulation 308, 39 FR 2101) are hereby amended to read as follows:

§ 907.608 Navel Orange Regulation 308.

(b) *Order.* (1) * * *

(i) District 1: 1,050,000 cartons.

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

Dated: January 23, 1974.

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

[FR Doc. 74-2220 Filed 1-25-74; 8:45 am]

CHAPTER X—AGRICULTURAL MARKET-
ING SERVICE (MARKETING AGREEMENTS
AND ORDERS; MILK), DEPARTMENT
OF AGRICULTURE

[Milk Order No. 46]

PART 1046—MILK IN THE LOUISVILLE-
LEXINGTON-EVANSVILLE MARKETING
AREA

Order Suspending Certain Provisions

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Louisville-Lexington-Evansville marketing area.

It is hereby found and determined that for January through June 1974 the following provisions in § 1046.44 of the order do not tend to effectuate the declared policy of the Act:

1. Paragraph (d) in its entirety.
2. In paragraph (e), "located less than 250 airline miles as determined by the market administrator, from the nearer of the City Halls in either Louisville, Ky., or Evansville, Ind.,".

STATEMENT OF CONSIDERATION

This suspension eliminates for January through June 1974 the provisions specifying that milk, skim milk, filled milk or cream transferred in bulk from a pool plant to a nonpool plant (other than a producer-handler plant or another order plant) more than 250 miles from the nearer of Louisville, Ky., or Evansville, Ind., shall be Class I. The action here taken, which was requested by a cooperative representing a majority of producers on the market, would classify such transfers according to the utilization at the nonpool plant. Without such action a handler would be required to pay the Class I price on all transfers of milk,

skim milk, filled milk or cream to non-pool plants more than 250 miles from Louisville to Evansville even though put to Class II milk use.

The suspension action for January through June 1974 is necessary to implement the orderly disposal of such products that are not needed for fluid use to available nonpool plants for processing into manufactured products. The mileage limitation with respect to cream transfers has been suspended since March 1972.

There is no opposition to the effect of this suspension. Removal of the mileage limitation for classifying transfers to nonpool plants as other than Class I was considered at a hearing held at Clayton, Missouri, July 22-24, 1970, and such action was recommended in the August 27, 1973, revised recommended decision (38 FR 25756) on which action is still pending. The time for filing exceptions to that decision expired November 12, 1973. No exceptions were taken to the conclusion that the mileage limitation under this order should be removed.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date.

Therefore, good cause exists for making this order effective January 1, 1974.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for January through June 1974.

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

Effective date: January 1, 1974.

Signed at Washington, D.C., on January 22, 1974.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc. 74-2201 Filed 1-25-74; 8:45 am]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATU-
RALIZATION SERVICE, DEPARTMENT
OF JUSTICE

Miscellaneous Amendments to Chapter

Pursuant to section 552 of title 5 of the United States Code (80 Stat. 383) and the authority contained in section 103 of the Immigration and Nationality Act (66 Stat. 173; 8 U.S.C. 1103) and 8 CFR 2.1, miscellaneous amendments, as set forth herein, are prescribed in 8 CFR Parts 100, 238, 242, 299, 316a, 319, and 499.

A new Service suboffice is established at Harlingen, Texas. Accordingly, in Part 100, § 100.4(c)(1) is amended by adding Harlingen, Texas to the listing of sub-offices.

Pursuant to section 238(d) of the Immigration and Nationality Act, an agreement has been entered into between the Commissioner of Immigration and Nat-

uralization and North Central Airlines, Inc., a transportation line operating to ports of the United States, to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. In Part 238, § 238.3(b) is, therefore, amended by adding "North Central Airlines, Inc." to the listing of signatory lines.

In Part 242, § 242.1(a) is amended by adding Harlingen, Texas to the listing of officers in charge authorized to issue orders to show cause; Houston, Texas is deleted from such listing since Houston has been designated a Service district office. In § 242.7 the first sentence is amended to vest officers in charge empowered to issue orders to show cause under § 242.1(a) with authority to cancel orders to show cause prior to commencement of the deportation hearing for a reason set forth in § 242.7. Such cancellation authority is presently restricted to any district director, acting district director or deputy district director. Thus, the amendment vests in the same officials both authority under § 242.1(a) to issue orders to show cause and authority under § 242.7 to cancel orders to show cause.

A number of immigration forms and nationality forms listed in Parts 299 and 499, respectively, have been reissued and now reflect more recent edition dates and/or amendment of titles. Accordingly, §§ 299.1 and 499.1 are amended to reflect the title amendments and current edition dates of the forms specified therein.

In Part 316a, § 316a.2 is amended by adding a specified American institution of research to the listing therein.

In Part 319, a technical amendment is made to the title of § 319.3.

In the light of the foregoing, the following amendments to 8 CFR Chapter I are hereby prescribed:

PART 100—STATEMENT OF
ORGANIZATION

In § 100.4, paragraph (c)(1) is amended by adding "Harlingen, Tex.," in alphabetical sequence to the listing of suboffices therein. As amended, § 100.4(c)(1) reads as follows:

§ 100.4 Field service.

(c) * * *

(1) *Interior locations.*

Aibany, N.Y.	Pittsburgh, Pa.
Albuquerque, N. Mex.	Reno, Nev.
Boise, Idaho	Sacramento, Calif.
Cincinnati, Ohio	Salt Lake City, Utah.
Dallas, Tex.	St. Louis, Mo.
Fairbanks, Alaska	Spokane, Wash.
Fresno, Calif.	Syracuse, N.Y.
Harlingen, Tex.	Tucson, Ariz.
Memphis, Tenn.	

PART 238—CONTRACTS WITH
TRANSPORTATION LINES

§ 238.3(b) [Amended]

In § 238.3 *Aliens in immediate and continuous transit*, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by adding thereto

in alphabetical sequence the following transportation line: "North Central Airlines, Inc."

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

1. In § 242.1, the last sentence of paragraph (a) is amended by adding "Harlingen, Tex." to, and by deleting "Houston, Tex." from, the enumeration of officers in charge. As amended, § 242.1(a) reads as follows:

§ 242.1 Order to show cause and notice of hearing.

(a) *Commencement.* Every proceeding to determine the deportability of an alien in the United States is commenced by the issuance and service of an order to show cause by the Service. In the proceeding the alien shall be known as the respondent. Orders to show cause may be issued by district directors, acting district directors, deputy district directors, and officers in charge at Albany, N.Y.; Cincinnati, Ohio; Dallas, Tex.; Hammond, Ind.; Harlingen, Tex.; Milwaukee, Wis.; Norfolk, Va.; Pittsburgh, Pa.; Providence, R.I.; San Diego, Calif.; Salt Lake City, Utah; St. Louis, Mo.; Spokane, Wash.

2. In § 242.7, the first sentence is amended. As amended, § 242.7 reads as follows:

§ 242.7 Cancellation of proceedings.

If an order to show cause has been issued, any district director, acting district director, deputy district director, or officer in charge of an office enumerated in § 242.1(a) may cancel the order to show cause or, prior to the actual commencement of the hearing under a served order to show cause, terminate proceedings thereunder, if in either case he is satisfied that the respondent is actually a national of the United States, or is not deportable under the immigration laws, or is deceased, or is not in the United States, or that the proceeding was improvidently begun; or after actual commencement of hearing such officer may move that the case be dismissed for any of the foregoing reasons or that the case be remanded to his jurisdiction on the ground that it has come to his attention that there are involved the foreign relations of the United States which require further consideration. Cancellation of an order to show cause or termination of proceedings or remand of a case pursuant to the foregoing shall be without prejudice to the alien or the Service. If an order to show cause has been cancelled or proceedings have been terminated pursuant to this section, any outstanding warrant of arrest shall also be cancelled. A special inquiry officer may, in his discretion, terminate deportation proceedings to permit respondent to proceed to a final hearing on a pending application or petition for naturalization when the respondent has established prima facie eligibility for naturalization and the case involves exceptionally ap-

pealing or humanitarian factors; in every other case, the deportation hearing shall be completed as promptly as possible notwithstanding the pendency of an application for naturalization during any stage of the proceedings.

PART 299—IMMIGRATION FORMS

In § 299.1 the listing of forms is amended to reflect the current edition dates of Forms I-53, I-94, I-126, I-179, I-197, I-292, I-391, I-570 and I-601, and to reflect a revision of the titles of Forms I-38, I-39, I-290B, I-538, I-550 and N-585, as follows:

§ 299.1 Prescribed forms.

- | Form number, title, and description |
|---|
| I-38 (5-1-73), Decision of the Immigration Judge. |
| I-39 (5-1-73), Decision of the Immigration Judge. |
| I-53 (1-1-74), Alien Address Report. |
| I-94 (9-1-73), Arrival-Departure Record. |
| I-126 (8-1-73), Report of Status by Treaty Trader or Investor. |
| I-179 (1-1-73), Identification Card for Resident Citizen in the United States. |
| I-197 (1-1-73), U.S. Citizen Identification Card. |
| I-290B (2-11-72), Notice of Appeal to Regional Commissioner. |
| I-292 (2-1-73), Decision. |
| I-391 (11-1-73), Notice—Immigration Bond Cancelled. |
| I-538 (6-1-73), Application for Nonimmigrant Student (F-1) for Extension of Stay, School Transfer or Permission to Accept or Continue Employment. |
| I-550 (2-1-73), Application for Verification of Lawful Permanent Residence of an Alien. |
| I-570 (12-1-73), Application for Issuance or Extension of Refugee Travel Document. |
| I-601 (10-1-73), Application for Waiver of Grounds of Excludability under Section 212(g), (h), or (i) of the Immigration and Nationality Act. |
| N-585 (9-1-73), Application for a Search of the Records of the Immigration and Naturalization Service. |

PART 316a—RESIDENCE, PHYSICAL PRESENCE AND ABSENCE

§ 316a.2 [Amended]

In § 316a.2 *American institutions of research*, the listing of research institutions is amended by adding in alphabetical sequence the following institution: "University of Minnesota, Department of Plant Pathology (in relationship to research project abroad)".

PART 319—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: SPOUSES OF UNITED STATES CITIZENS

The title of § 319.3 is amended by deleting therefrom the word "abroad". As amended, the title of § 319.3 reads as follows:

§ 319.3 Persons continuously employed for 5 years by United States organizations engaged in disseminating information and surviving spouses of United States citizens who died during a period of honorable service in an active duty status in the Armed Forces of the United States.

PART 499—NATIONALITY FORMS

In § 499.1 the listing of forms is amended to reflect the current edition dates of Forms N-400 and N-600, and to reflect a revision of the title of Form N-585, as follows:

§ 499.1 Prescribed forms.

- | Form number, title, and description |
|--|
| N-400 (10-1-73), Application to File Petition for Naturalization. |
| N-585 (9-1-73), Application for a Search of the Records of the Immigration and Naturalization Service. |
| N-600 (12-1-73), Application for Certificate of Citizenship. |

Compliance with the provisions of section 553 of Title 5 of the United States Code (80 Stat. 383) as to notice of proposed rule making and delayed effective date is unnecessary in this instance and would serve no useful purpose because the amendments to §§ 100.4(c) (1), 242.1(a) and 242.7 relate to agency management; the amendments to §§ 299.1, 319.3 and 499.1 are editorial in nature; the amendment to § 238.3(b) adds a transportation line to the listing, and the amendment to § 316a.2 adds an institution of research to the listing.

Effective date: This order shall become effective on January 28, 1974.

Dated: January 22, 1974.

L. F. CHAPMAN, JR.,
Commissioner of
Immigration and Naturalization.

[FR Doc.74-2207 Filed 1-25-74; 8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 73-SO-83]

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

Redesignation of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to redesignate the Selma, Ala., control zone.

The Selma control zone is described in § 71.171 (39 FR 354) and is designated part time, with effective hours as 0600 to 2400 hours, local time, Monday through Friday, and 0600 to 1800 hours, local time, Saturday and Sunday. Because of a change in hours of operation of Craig AFB to 0600 to 1800 hours, local time, Monday through Thursday; 0600 to 2000 hours, local time, Friday; 0900 to 1600 hours, local time, Saturday, and 1000 to 1600 hours, local time, Sunday, it is necessary to alter the description to reflect these changes. Since this amendment is less restrictive in nature, notice and public procedure are unnecessary.

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

In § 71.171 (39 FR 354), the Selma, Ala., control zone is amended as follows:

"* * * 0600 to 2400 hours, local time, Monday through Friday; 0600 to 1800 hours, local time, Saturday and Sunday * * *" is deleted and "* * * 0600 to 1800 hours, local time, Monday through Thursday; 0600 to 2000 hours, local time, Friday; 0900 to 1600 hours, local time, Saturday; 1000 to 1600 hours, local time, Sunday * * *" is substituted therefor.

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

Issued in East Point, Ga., on January 16, 1974.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.74-2170 Filed 1-25-74;8:45 am]

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

Redesignation of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to redesignate the Valdosta, Ga. (Moody AFB) control zone.

The Valdosta (Moody AFB) control zone is described in § 71.171 (39 FR 354) and is designated part time, with effective hours as 1000 to 1800 hours, local time, Saturday, and 1200 to 1800 hours, local time, Sunday. Because of a change in hours of operation of Moody AFB to 0900 to 1600 hours, local time, Saturday, and 1000 to 1600 hours, local time, Sunday, it is necessary to alter the description to reflect these changes. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

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

In § 71.171 (39 FR 354), the Valdosta, Ga. (Moody AFB) control zone is amended as follows:

"* * * 1000 to 1800 hours, local time, Saturday, and from 1200 to 1800 hours, local time, Sunday * * *" is deleted and "* * * 0900 to 1600 hours, local time, Saturday, and from 1000 to 1600 hours, local time, Sunday * * *" is substituted therefor.

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

Issued in East Point, Ga., on January 16, 1974.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.74-2172 Filed 1-25-74;8:45 am]

[Airspace Docket No. 74-SO-2]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Manning, S.C., transition area.

The Manning transition area is described in § 71.181 (39 FR 440). In the description, there is a 5.5-mile radius predicated on the Wings and Wheels Airport, Santee, S.C., and an extension predicated on Vance VOR 103° radial. Since this airport has been permanently closed and the instrument approach procedure to this airport has been cancelled, there is no longer a requirement for this transition area. It is necessary to alter the description to reflect this change. Since this amendment is less restrictive in nature, notice and public procedure hereon are unnecessary.

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

In § 71.181 (39 FR 440), the Manning S.C., transition area is amended as follows:

All after "Vance VOR 061° radial," is deleted and "extending from the 6.5-mile radius area to the VOR." is substituted therefor.

This amendment is made under the authority of sec. 307(a) of the Federal

Aviation Act of 1958 (49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on January 16, 1974.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.74-2171 Filed 1-25-74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION PART 13—COMMERCIAL RADIO OPERATORS

Standard (AM) and FM Broadcast Station Operator Requirements

In the matter of amendment of Part 13 of the rules to specify the operating authority of the various classes of commercial operators to agree with the operator requirements of stations in the Radio Broadcast and Broadcast Auxiliary Services specified in Parts 73 and 74.

1. Sections 13.61 and 13.62 of the rules specify the operating authority and special privileges for operators holding the various classes of commercial operator licenses and permits. On June 7, 1972, the Commission amended §§ 73.93, 73.265 and 73.565 of the rules for Radio Broadcast Services (37 FR 11538, June 8, 1972) and thereby permitted operators holding second-class licenses and third class permits endorsed for broadcast station use to operate certain station transmitters which previously required full time first class radiotelephone operators. There is a need to amend §§ 13.61 and 13.62 in order to make the language of these sections correspond with the operator requirements of the various types of broadcast stations.

2. The establishment of certain Special Broadcast and Other Program Distribution Services included in Part 74 also requires amendment of §§ 13.61 and 13.62 so that these broadcast services will be included within the operating authority for the commercial operators holding the required classes of licenses.

3. The amendments adopted herein are editorial in nature made to establish agreement within the existing provisions of Parts 73 and 74, and hence the prior notice, procedure, and effective date provisions of 5 U.S.C. section 553 do not apply. Authority for the promulgation of the amendments is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules.

4. Accordingly, 47 CFR Part 13 is amended as shown below, effective January 30, 1974.

Adopted: January 18, 1974.

Released: January 21, 1974.

(Secs. 4, 303, 48 Stat., as amended, 1068, 1082 (47 U.S.C. 154, 303))

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] JOHN M. TORBET, Executive Director.

Part 13 of 47 CFR Chapter I is amended as follows:

1. In § 13.61, paragraphs (d) (2), (f) (6), and (g) (1) and (3) are amended to read as follows:

§ 13.61 Operating authority.

(d) * * *
(2) Any of the various classes of broadcast stations.

(f) * * *
(6) Television broadcast stations.

(g) * * *
(1) Stations transmitting television other than Instructional Television Fixed Service stations.

(3) Any of the various classes of broadcast stations.

2. In § 13.62(c), the introductory text and subparagraphs (1), (2), and (3) are amended to read as follows:

§ 13.62 Special privileges.

(c) The holder of a commercial radio operator second-class license or third-class permit endorsed for broadcast station operation may operate any class of standard, FM, or educational FM broadcast station except those using directional antenna systems which are required by the station authorizations to maintain ratios of the currents in the elements of the systems within a tolerance which is less than five percent or relative phases within tolerances which are less than three degrees, under the following conditions:

(1) That adjustments of transmitting equipment by such operators, except when under the immediate supervision of a radiotelephone first-class operator (radiotelephone second-class operator for educational FM stations with transmitter output power of 1000 watts or less), and except as provided in paragraph (d) of this section, shall be limited to the following:

(i) Those necessary to turn the transmitter on and off;

(ii) Those necessary to compensate for voltage fluctuations in the primary power supply;

(iii) Those necessary to maintain modulation levels of the transmitter within prescribed limits;

(iv) Those necessary to effect routine changes in operating power which are required by the station authorization;

(v) Those necessary to change between nondirectional and directional or between differing radiation patterns, provided that such changes require only activation of switches and do not involve the manual tuning of the transmitter's final amplifier or antenna phasor equipment. The switching equipment shall be so arranged that the failure of any relay in the directional antenna system to activate properly will cause the emissions of the station to terminate.

(2) The emissions of the station shall be terminated immediately whenever the transmitting system is observed operating beyond the upper and lower limiting values of parameters required to be observed and logged or in any manner inconsistent with the rules or the station authorization, and the above adjustments are ineffective in correcting the condition of improper operation, and a first-class radiotelephone operator is not present.

(3) The special operating authority granted in this section with respect to broadcast stations is subject to the condition that there shall be in employment at the station in accordance with Part 73 of this chapter one or more first-class radiotelephone operators authorized to make or supervise all adjustments, whose primary duty shall be to affect and insure the proper functioning of the transmitting system. In the case of a noncommercial educational FM broadcast station with authorized transmitter output power of 1000 watts or less, a second-class radiotelephone licensed operator may be employed in lieu of a first-class licensed operator.

[FR Doc.74-2214 Filed 1-25-74;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 1-8; Notice 15]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Retreaded Pneumatic Tires

This notice and an accompanying notice of proposed rulemaking (39 FR 3571) are intended to implement the decision of the United States Court of Appeals for the District of Columbia in the "National Tire Dealers' and Retreaders' Association, Inc., v. Brinegar" (Case No. 72-1753; decided January 8, 1974). Standard No. 117 was published in its present form on March 23, 1972 (37 FR 5950) and amended January 31, 1973 (38 FR 2982), March 15, 1973 (38 FR 6999), April 19, 1973 (38 FR 9668), May 3, 1973 (38 FR 10940), and January 9, 1974 (39 FR 1443).

Standard No. 117 would have required, effective February 1, 1974, that each retreaded tire be permanently labeled with each of the following items of information: The tire's size designation; the tire's maximum permissible inflation pressure, either as it appears on the casing or as set forth in Table 1 of the standard; the tire's maximum load, either as it appears on the casing or as

set forth in Table 1; the actual number of plies, ply rating, or both; the word "tubeless", if the tire is a tubeless tire, or the words "tube-type" if the tire is a tube-type tire; the words "bias-belted", or the actual number of plies in the sidewall and the actual number of plies in the tread area, if the tire is of bias/belted construction; and the word "radial" if the tire is of radial construction. The Court's opinion vacates those parts of the permanent labeling requirements dealing with tire size, maximum inflation pressure, ply rating, tubeless or tube-type, and bias/belted and radial construction. It states that the standard should contain requirements for permanent labeling of the maximum permissible load, the actual number of plies, and the composition of the material used in the ply of the tire. This notice clarifies Standard No. 117 to require the maximum load to be permanently labeled onto each retreaded tire. As that requirement remains unchanged as a result of the Court's ruling, its effective date of February 1, 1974, is retained. Requirements for permanent labeling of the actual number of plies and the generic name of the cord material are not presently contained in the standard, and are accordingly proposed in a companion notice published on page 3571 of this issue of the FEDERAL REGISTER.

Under the language of Standard No. 117, the deletion of permanent labeling requirements results in a continuation of the existing requirement for affixed labeling in paragraph S6.3.1 with respect to the items of information deleted. Any information required to be labeled by paragraph S6.3.1 that is not permanently labeled onto the tire sidewall, i.e., either retained from the casing or relabeled on to the retreaded tire, must be included on a label, not easily removable, affixed to the tire sidewall.

In light of the above, paragraph S6.3.2 of 49 CFR 571.117 (Motor Vehicle Safety Standard No. 117) is revised to read:

§ 571.117 Standard No. 117; Retreaded pneumatic tires.

S6.3.2 Each retreaded pneumatic tire manufactured on or after February 1, 1974, shall be permanently labeled (through molding, branding, or other method that will produce a permanent label) in at least one location on the tire sidewall, in letters and numerals not less than 0.078 inches high, with the tire's maximum load, either as it appears on the casing or as set forth in Table I.

Effective date: February 1, 1974. This notice merely restates an effective date established January 31, 1973 (38 FR 2982).

(Sec. 103, 112, 113, 114, 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1401, 1402, 1403, 1407, 1421; delegation of authority at 49 CFR 1.51.)

Issued on January 24, 1974.

JAMES B. GREGORY, Administrator.

[FR Doc.74-2314 Filed 1-24-74;3:26 pm]

[Docket No. 72-6; Notice 3]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Motorcycle Helmets

The purpose of this notice is to respond to petitions for reconsideration and petitions for rulemaking to amend Motor Vehicle Safety Standard No. 218, "Motorcycle helmets" (49 CFR 571.218).

Standard No. 218, published on August 20, 1973 (38 FR 22390), established minimum performance requirements for helmets manufactured for use by motorcyclists and other motor vehicle users. Pursuant to 49 CFR 553.35, petitions for reconsideration were filed by the Safety Helmet Council of America (SHCA) and Lear-Siegler, Inc., Bon-Aire Division. Additionally, pursuant to 49 CFR 553.31, petitions to amend the standard were filed by the Z-90 Committee of the American National Standards Institute, Midwest Plastics Corp., Approved Engineering Test Laboratories, Bell-Toptex, Inc., Premier Seat and Accessory Co., Safetech Co., Sterling Products Co., Inc., Lanco Division of Roper Corp., American Safety Equipment Corp., and Electrofilm, Inc.

In response to information contained in both the petitions for reconsideration and the petitions for rulemaking, the standard is being amended in some minor respects, and its effectiveness is temporarily suspended for helmets that must be tested on headform sizes A, B, and D. Requested changes in other requirements of the standard are denied.

1. *Effective date.* The NHTSA received comments from Royal Industries/Grant Division, Jefferson Helmets, Inc., and Rebecor, Inc., urging that the March 1, 1974, effective date be reaffirmed and stating that they either have already produced or could produce helmets by that date which meet the standard's requirements. The NHTSA commends these manufacturers for their outstanding efforts and their positive attitude toward producing safer products.

The parties who submitted petitions, however, all requested some postponement of the standard's effective date. The postponement requests ranged from an indefinite extension to a delay until the manufacturers are able to test helmets to the required headforms, and were sought on the following three grounds: (1) Additional time in order to obtain headforms required for reference marking and testing; (2) alleged inadequacy of the headform diagrams provided in the final rule; and (3) inability to find a supplier or forge for the K-1A magnesium alloy required for the impact attenuation test headforms.

As explained in the preamble to the standard, the headforms provided in the Appendix of the notice of proposed rulemaking (May 19, 1972, 37 FR 10097), were changed by the agency in order to utilize the readily available Z90.1 headform and to promote greater uniformity in testing and more repeatable results. In view of the fact that the size C headform of the final rule is identical to the

Z90.1 headform, is readily available in test laboratories, is used for several ongoing certification programs, and that the other headforms are scaled proportionally, the NHTSA anticipated that competition would motivate both the manufacturers and the test laboratories to take the initiative either to obtain or to produce the other required headforms. It now appears that the problem of finding a supplier or forge for the K-1A magnesium alloy required for the A, B, and D impact attenuation test headforms is substantial enough to justify the requests for a postponement of the standard's effective date for helmets that must be tested on headform sizes A, B, and D.

Because the NHTSA determined that the size C headform would be identical to the Z90.1 headform, the low resonance magnesium alloy (K-1A) specified for making the Z90.1 headform also was specified for headforms required by the standard. Statements that it might be difficult to find suppliers or forges for the material were first made in the petitions on the standard. The NHTSA has determined that other low-resonance magnesium alloys can be substituted for the K-1A type without causing significant variances in the results of any of the helmet tests, so that manufacturers can determine compliance without undue cost penalties even where the K-1A alloy is in short supply. Accordingly, the K-1A alloy is retained as the basic headform material for the standard.

In view of the foregoing considerations with particular emphasis on the fact that testing services through commercial testing laboratories have been readily available for several years for the ANSI Z90.1 Standard headform, which is the size C headform of the standard, the requests for postponing the standard's effective date are denied with respect to helmets that fit headform C.

The petitions for a postponement of the effective date are granted, however, with respect to helmets that must be tested on headforms A, B, and D. A sentence is being added to the Application section of the standard, excepting from its coverage helmets that must be tested on these headform sizes. The second sentence is S6.1.1 of the standard relating to the selection of a reference headform to be used for reference marking should be disregarded until the standard is made effective for helmets that must be tested on headform sizes A, B, and D. To facilitate both the production and availability of headforms, the NHTSA has contracted with the Snell Memorial Foundation to monitor the preparation of detail drawings and model headforms consistent with the requirements of the standard. The drawings and headforms will be included in the docket for public examination upon their completion. A review of the leadtime information provided by the comments to the docket indicates that approximately 8 months of manufacturer leadtime will be needed after the detail dimensional drawings of the A, B, and D headforms become available. When the drawings are available,

notice to that effect will be published in the FEDERAL REGISTER. The planned effective date for the A, B, and D-size helmets is 8 months from the date of the publication of that notice.

2. *Time duration criteria for impact attenuation test.* Petitions on the impact attenuation test time duration criteria of paragraph S5.1(b) ranged from eliminating the time duration criteria of 2.0 milliseconds and 4.0 milliseconds at the 200g and 150g levels, respectively, to increasing these criteria to 3.0 milliseconds at the 200g level and 6.0 milliseconds at the 150g level. None of these petitions raised any issues or submitted any data different from those already considered by the NHTSA. The available biomechanical data indicate that the head impact protection provided to the helmet user by the standard's time duration criteria is greater than that which would result from the proposed changes, and the 2.0 and 4.0 millisecond criteria are retained.

3. *Conditioning period.* One petitioner requested that the 24-hour conditioning requirement for each of the four impact tests in paragraph S6.3 be modified to "4 to 24 hours," consistent with the requirements of ANSI Z90.1, arguing that 4 hours is sufficient to condition a helmet to the various environmental conditions required for the respective tests without compromising the intent of the standard. Upon further study of this matter, the NHTSA has concluded that, although 4 hours would not be sufficient as a general condition, changing the conditioning period to 12 hours would facilitate product testing without compromising the intent of the standard. Accordingly, paragraph S6.3, "Conditioning," is revised by changing the "24-hour" conditioning requirement to "12 hours" in each place the 24-hour requirement appears.

4. *Low temperature conditioning requirement.* Three petitioners objected to the -20° F. low temperature conditioning requirement in paragraph S6.3(b) on the basis that the requirement is overly severe. On review of available information, this agency has determined that precise data on the best low temperature requirements for testing are not available. Pending receipt of more specific information, therefore, the cold temperature requirement of 14° F. that has been used up to now by the American National Standards Institute appears to be the most appropriate. Accordingly, paragraph S6.3(b), "Low temperature," is revised by changing the "-20° F." conditioning requirement to "14° F."

5. *Projections.* One petitioner requested that paragraph S5.5, "Projections," be changed to permit a maximum rigid projection inside the helmet shell of 0.080 in. with a minimum diameter of 0.150 in. The basis for this request is to allow for the use of eyelets and rivets for attachment of snaps for face shields and retention systems. The NHTSA is concerned that due care be exercised with regard to minimizing the injury producing potential of such fasteners. Eyelets and rivets for the attachment of

snaps should be designed to form a portion of the continuous surface of the inside of the helmet shell. Where they are so designed, such attachments would not be "rigid projections." Accordingly, no revision to this requirement is necessary.

6. *Labeling.* One petitioner recommended that the labeling requirements in paragraph S5.6 be clarified with the help of manufacturers and other interested parties. Since the petitioner did not specify the points requiring clarification and because no other comments were received on this subject, the NHTSA has determined that no sufficient reasons have been given to change the labeling requirements.

In consideration of the foregoing, 49 CFR 571.218, *Motor Vehicle Safety Standard No. 218, Motorcycle Helmets*, is amended as follows:

1. The following sentence is added to S3., Application: "The requirements of this standard apply to helmets that fit headform size C, manufactured on or after March 1, 1974. Helmets that do not fit headform size C will not be covered by this standard until it is extended to those sizes by further amendment."

2. S6.3, conditioning, is revised by changing the term "24 hours" to "12 hours" in each place that it appears.

3. S6.3(b), Low temperature, is revised by changing "-20° F." to "14° F."

Effective date: March 1, 1974.

(Secs. 103, 112, 119, Public Law 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1401, 1407; delegation of authority at 49 CFR 1.51.)

Issued on January 23, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74-2343 Filed 1-24-74; 4:44 pm]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

[SERVICE ORDER NO. 1169]

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1033—CAR SERVICE

Providence and Worcester Co. et al.

Providence and Worcester Company authorized to operate over tracks abandoned by Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, trustees, and over tracks of Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, trustees.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 21st day of January 1974.

It appearing, That the Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees (B&M), in Finance Docket No. 26558, was authorized to abandon a portion of its Worcester Branch between milepost 3.2595 at Worcester, Massachusetts, and milepost 25.199 at Gardner, Massachusetts, a distance of approximately 21.94 miles; that the Commission's order authorizing abandonment of the aforementioned trackage required the B&M to sell this trackage to any responsible person or corporation offering to con-

tinue its operation; that the Providence and Worcester Company (P&W) has agreed to purchase the aforementioned line of the B&M; that the B&M and the P&W have agreed upon the terms of the sale of this line to the P&W; that the B&M has also consented to the use by the P&W of its line between milepost 0.00 at Worcester, Massachusetts, and milepost 3.2595 at Worcester, Massachusetts, a distance of approximately 3.26 miles, in order to provide a connection between the existing line of the P&W and the line to be acquired by the P&W from the B&M; that the B&M has also consented to the use of the remaining segment of its Worcester Branch between milepost 25.199, and milepost 26.166 at Gardner, Massachusetts, a distance of approximately 1.033 miles, in order to provide interchange connections with the B&M; that operation by the P&W over the aforementioned trackage to be abandoned by the B&M and over the necessary connecting trackage of the B&M at Worcester, Massachusetts, and Gardner, Massachusetts, is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1169 Service Order No. 1169.

(a) (Providence and Worcester Company authorized to operate over tracks abandoned by Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, trustees, and over tracks of Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, trustees) The Providence and Worcester Company (P&W) be, and it is hereby, authorized to operate over tracks of the Worcester Branch abandoned by the Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees (B&M), between milepost 3.2595 at Worcester, Massachusetts, and milepost 25.199 at Gardner, Massachusetts, a distance of approximately 21.94 miles, and over tracks of the B&M between milepost 0.00 and milepost 3.2595 at Worcester, Massachusetts, a distance of approximately 3.26 miles, and over tracks of the B&M between Worcester Branch milepost 25.199 and milepost 26.166, a distance of approximately 1.033 miles, at Gardner, Massachusetts, pending disposition of the application of the P&W, in Finance Docket No. 27515, seeking authority to acquire and operate the aforementioned trackage.

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

(c) *Rates applicable.* Inasmuch as this operation by the P&W over tracks abandoned by the B&M and over tracks of the B&M is deemed to be due carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via the B&M, until tariffs naming rates and

routes specifically applicable via the P&W become effective.

(d) *Effective date.* This order shall become effective at 12:01 a.m., February 1, 1974.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

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

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

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-2226 Filed 1-25-74; 5:14 p.m.]

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 150—PHASE IV PRICE REGULATIONS

PART 155—PHASE IV PRICE PROCEDURES

Improvements and Remedies

The purpose of these amendments is to improve the administration of the Council's price procedural regulations in order to resolve compliance matters in a more effective and orderly manner. As a result of the many changes in the Economic Stabilization Program during the past year, the procedural requirements for the processing of remaining Phase I, II, III violations and other matters in Phase IV have become complicated and burdensome for both the business community and the agencies which administer the Economic Stabilization Program.

In order to simplify and clarify these procedural requirements, the Council is taking several actions. First, the Council is expanding the delegation of authority to the Internal Revenue Service to provide it with full remedial authority with respect to Phase I, II and III matters and with respect to all firms, regardless of revenue category, except those which are referred to the Council or are in litigation.

In connection with these administrative changes, the Council has amended § 150.2 to provide that the procedures and remedies applicable to Phase I, II and III matters are to be the same as those which are available under Part 155 of the Phase IV regulations. Heretofore, remaining Phase I, II and III exceptions,

violations and other price matters have been processed in accordance with § 150.2 under the applicable Phase II and III procedural regulations. The amendment provides, however, that the applicable Phase II or III procedures may continue to be used in cases in which those procedures were initiated prior to January 24, 1974, and good cause is shown why proceedings should continue to be conducted in accordance with those procedures. A parallel amendment has been made to § 155.1(b) to effect this change.

In addition, the Council's Procedural Regulations (Part 155) have been amended to more fully provide for the issuance of remedial orders to begin proceedings rather than through issuance of notices of probable violation. Heretofore, Part 155 provided for the issuance of remedial orders to begin proceedings only in unusual circumstances (§ 155.84). As amended, § 155.84 provides that remedial orders may also be issued to begin proceedings in any case where the Council or the Internal Revenue finds on preliminary examination that a violation probably has occurred and that the issuance of a remedial order to begin proceedings rather than a notice of probable violation would best serve attainment of the goals of the Economic Stabilization Program. However, in such cases the remedial order may impose no sanction other than ordering that no further price increases may be implemented or that the 30-day prenotification clock is suspended until a reply is made within 10 days and the matter at issue is administratively resolved pursuant to §§ 155.85 and 155.86.

The Council, in consultation with the Internal Revenue Service, has determined that this change is necessary in order to assist the Council in carrying out its compliance and deterrence responsibilities. The short delay in instituting further price increases which will be required in some cases will not significantly affect the pricing practices of the firm which appears to be in violation but it will contribute substantially to the Council's efforts to assure that its compliance procedures are implemented in an orderly and effective manner.

Finally, a corresponding amendment to § 150.154 provides for the temporary suspension of the running of the 30-day prenotification period when a remedial order has been issued pursuant to the amended § 155.84. Prior to these amendments, § 150.154 provided for suspension of the 30-day clock only when additional information relating to the proposed price increase was necessary. This change avoids any possible conflict

between § 155.84 and § 150.154 by making it clear that a remedial order issued under § 155.84 may provide for the suspension of the running of the 30-day prenotification period.

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

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

In consideration of the foregoing, 6 CFR Parts 150 and 155 are amended as set forth below, effective January 24, 1974.

Issued in Washington, D.C., on January 24, 1974.

JAMES W. McLANE,
Deputy Director.

1. Section 150.2 is amended by adding the following paragraph (d):

§ 150.2 Procedures and remedies applicable to certain Phase I, II and III matters.

(d) Notwithstanding paragraphs (a), (b), and (c) of this section, all Phase I, II and III matters shall be processed in accordance with Part 155 of this title beginning January 24, 1974, unless the Council determines in any case in which Phase II or III procedures had been initiated prior to January 24, 1974, that good cause has been shown why proceedings should continue to be conducted in accordance with those procedures.

2. Section 150.154(b) is amended to read as follows:

§ 150.154 Council action.

(b) The Council may issue an order temporarily suspending the running of the 30-day prenotification period of a proposed price increase if it finds additional information is necessary or that the form was improperly filed. The order will remain in effect until the Council notifies the firm in writing that the additional information has been received and accepted. The Council may also issue a remedial order temporarily suspending the running of the 30-day prenotification period pursuant to § 155.84 of this title. Unless otherwise provided in writing by the Council, the prenotification period will resume running on the first day which is not a Saturday, Sunday, or Federal legal holiday and which follows the day on which the Council notifies the firm in writing that the additional information has been received and accepted or that the remedial order has been vacated.

3. Section 155.1(b) is amended to read as follows:

§ 155.1 Purpose and scope.

(b) The procedures established by this part are also to be utilized in proceedings before the Cost of Living Council and the Internal Revenue Service relating to all Phase I, II, and III price matters except as provided in § 150.2(d) of this title.

4. Section 155.84 is amended to read as follows:

§ 155.84 Issuance of remedial orders to begin proceedings.

(a) In unusual circumstances. Remedial orders may be issued to begin proceedings under this subpart if the Council finds on preliminary examination that the violations are patent or repetitive, that their immediate cessation is required to avoid irreparable injury to others or unjust enrichment to the person to whom the order is issued, or for any other unusual circumstance the Council deems sufficient.

(b) In other circumstances. Remedial orders may be issued to begin proceedings under this subpart if the Council finds on preliminary examination that it is probable that a violation has occurred and that the issuance of a remedial order to begin proceedings would serve attainment of the goals of the Economic Stabilization Program. A remedial order issued pursuant to this paragraph may order that further price increases are prohibited, or that the running of the 30-day prenotification period is suspended, until disposition of the matter at issue pursuant to §§ 155.85 and 155.86 of this title but it may not order refunds or price reductions or the payment of civil penalties.

[FR Doc. 74-2281 Filed 1-24-74; 11:19 am]

PART 152—COST OF LIVING COUNCIL PHASE IV PAY REGULATIONS

Change in Prenotification and Reporting Requirements for Pay Adjustments in the Food Industry

Part 152 is amended in Subpart H to delete the requirement that all pay adjustments affecting employees in the food industry must be prenotified and to delete

the interim rules for reporting pay adjustments in the food industry. In addition three new sections are added and several technical and clarifying changes are made in the special rules applicable to the food industry.

Section 152.72 is amended in paragraphs (c) (1) and (c) (2) to make clear that employees of mobile lunch wagons as described in Standard Industrial Classification Code 5963 are included among those employees not subject to the provisions of Subpart H, Part 152.

Section 152.72 is further amended in paragraph (c) (2) to reflect the intent of the Council that employees engaged in the operation of an eating or drinking place or mobile lunch wagon, or in support thereof, should not be covered by the special rules applicable to the food industry if the eating or drinking place or mobile lunch wagon is owned or controlled by a manufacturer, service organization, wholesaler or retailer and if annual sales or revenues derived from the sales of food (excluding sales or revenues attributable to the eating or drinking place or mobile lunch wagon) amount to less than \$50 million and less than 20 percent of total annual sales or revenues (including those sales and revenues derived from the eating or drinking place or mobile lunch wagon).

A new § 152.76 has been added to set forth new rules for prenotifying pay adjustments pursuant to contracts entered into or pay practices established after November 13, 1971. Pay adjustments which do not exceed the general wage and salary standard need not be reported or prenotified. To the extent the total of all pay adjustments in a control year exceeds the general wage and salary standard, such adjustments may not be put into effect unless prenotification of such adjustments in excess of the standard has been submitted to the Council and the Council has approved such excess adjustments. If scheduled pay adjustments in a control year exceed the general wage and salary standard, such scheduled pay adjustments must be reported to the Council, whether or not that portion of the scheduled pay adjustment in excess of the general wage and salary standard is actually put into effect. For example, even if the parties have agreed not to seek approval of the Council and to implement a pay adjustment not in excess of 5.5 percent, a report must be filed with the Council no later than 10 days after implementation of the first pay adjustment in the control year.

New § 152.77 continues the rule relating to contracts in existence prior to November 14, 1971, formerly stated in § 152.75(c). Such contracts may continue to operate according to their terms subject to challenge by a party at interest or the Council. If pay adjustments pursuant to such contracts are not in excess of the general wage and salary standard, a

report is not required. If pay adjustments are in excess of the general wage and salary standard, a report must be submitted not later than 10 days after implementation of the first pay adjustment in the control year involved.

New § 152.78 provides for the imposition of prenotification requirements in specific instances where the Council has reason to believe that particular pay adjustments may unduly influence the economy in a destabilizing manner, may affect pay adjustments applicable to or affecting other firms or appropriate employee units, or may be otherwise unreasonably inconsistent with the standards and goals of the Economic Stabilization Program.

In addition, conforming amendments are made in § 152.72(a), in the introductory material to §§ 152.74(e) and 152.74(f) and in §§ 152.74(e)(3) and 152.74(f)(2).

Section 152.73(b), which is deleted by these amendments, provided that pay adjustments in excess of the standard could be put into effect (subject to review by the Council) if the Council did not take action within 60 days after the prenotification was submitted. This provision for a "60-day clock" was first established on March 29, 1973, but has never been permitted to become effective. No pay adjustments have been permitted to take effect pursuant to this provision of the regulations. Since § 152.73(b) will not be effective on February 1, 1974, the "60-day clock" will not be applied to those prenotifications that may have been submitted prior to that date with respect to pay adjustments scheduled to become effective on or after that date. Such pay adjustments are subject to the rules of new § 152.76. Any prenotification of such a pay adjustment already filed will be treated as a report to the extent appropriate under that section, and the pay adjustment so reported need not be reported again. However, no pay adjustment in excess of the general wage and salary standard may be implemented unless authorized under § 152.77 or specifically approved by the Council.

Because the immediate implementation of Executive Order No. 11730 is required, and because the purpose of these regulations is to provide immediate guidance as to Cost of Living Council decisions, the Council finds that publication in accordance with normal rule making procedures is impracticable and that good cause exists for making these amendments effective in less than 30 days. Interested persons may submit comments regarding these amendments. Communications should be addressed to the Office of the General Counsel, Cost of Living Council, Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489.)

Issued in Washington, D.C., this 25th day of January 1974.

JAMES W. McLANE,
Deputy Director,
Cost of Living Council.

PARAGRAPH 1. In 6 CFR Part 152, § 152.72 is amended by revising paragraphs (a) and (c) to read as follows:

§ 152.72 Pay adjustments affecting employees in the food industry.

(a) Pay adjustments affecting employees in the food industry remain subject to the classification, prenotification, and reporting requirements of the Council and the rules and regulations of the Pay Board in effect on January 10, 1973, with respect to such pay adjustments put into effect prior to 9 p.m., e.s.t., March 29, 1973. After such time, the classification, prenotification, and reporting requirements set forth in this subpart, together with such rules and regulations of the Pay Board not inconsistent therewith, shall apply to such pay adjustments. The Council shall succeed to and assume all applicable rights, duties, and obligations of the Pay Board contained in the regulations of the Pay Board in effect on January 10, 1973. Whenever authorizations from or reports to the Pay Board or the Council, as appropriate, are required under the appropriate rules and regulations, such authorizations shall be obtained from and reports made to the Council in the form and within the time required under such appropriate rules and regulations.

(c) On and after June 25, 1973, for purposes of paragraph (b) of this section, "Pay adjustments affecting employees in the food industry" does not include pay adjustments with respect to continuing basis in the operation of an eating place (described in Standard Industrial Classification Code 5812) or drinking place (described in Standard Industrial Classification Code 5813) or mobile lunch wagons (described in Standard Industrial Classification Code 5963) or in the rendering of administrative or support functions with respect to such operation, unless—

(1) Such eating place or drinking place or mobile lunch wagon is part of or is controlled, directly or indirectly, by a manufacturer, service organization, wholesaler, or retailer, and

(2) The annual sales or revenues derived by a manufacturer, service organization, wholesaler, or retailer from the sales of food (excluding sales or revenues attributable to eating places, drinking places, and mobile lunch wagons) amount to at least 20 percent or at least \$50 million of total annual sales or revenues of the manufacturer, service organization, wholesaler, or retailer (including sales or revenues attributable to eating places, drinking places, and mobile lunch wagons).

This paragraph applies only to employees of the firm which operates the eating place or drinking place or mobile lunch wagon.

§§ 152.73, 152.75 [Deleted]

PAR. 2. In 6 CFR Part 152, §§ 152.73 and 152.75 are deleted.

PAR. 3. In 6 CFR Part 152, § 152.74 is amended by revising the introductory material in paragraphs (e) and (f) and paragraphs (e) (3) and (f) (2) to read as follows:

§ 152.74 Procedures for prenotification and reporting.

(e) *Individual increases.*—For purposes of this subpart, prenotification of proposed pay adjustments affecting employees in the food industry shall be submitted to the Council in the manner set forth in this paragraph if such pay adjustments apply to individual employees within an appropriate employee unit during a control year, e.g., through operation of a merit plan which provides individual increases on a random or variable timing basis.

(3) *Limitation on pay adjustments.*—The total of wage and salary increases put into effect during a control year in a unit for which prenotification has been submitted under the provisions of this paragraph shall at no time exceed the maximum permissible annual aggregate wage and salary increase which has been approved by the Council following such prenotification.

(f) *Cost of living allowance increases.*—For purposes of this subpart, where pay adjustments affecting employees in the food industry include cost of living allowances increases (e.g., pursuant to an escalator formula), prenotification of such proposed cost of living allowance increases shall be submitted to the Council in the following manner:

(2) *Further prenotification.*—If, when the precise amounts of such cost of living allowance increases become known, such amounts do not exceed the amounts prenotified under paragraph (f) (1) of this section and approved by the Council pursuant to such prenotification, such increases may be put into effect as scheduled. However, if the precise amounts exceed amounts previously prenotified and approved or permitted to be put into effect, the portion of such increases in excess of the amounts previously prenotified and approved or permitted to be

put into effect may not be put into effect unless such increases are specifically prenotified to and are approved by the Council. Such further prenotification shall be submitted to the Council as soon as practicable after the precise amounts of such increases are determined.

PAR. 4. In 6 CFR Part 152, new §§ 152.76, 152.77 and 152.78 are added as follows:

§ 152.76 Contracts and pay practices in existence after November 13, 1971.

(a) *Scope.* The provisions of this section are applicable to pay adjustments scheduled to be put into effect on or after February 1, 1974, under the terms of a contract entered into or a pay practice established after November 13, 1971, and to pay adjustments pursuant to a contract entered into or pay practice established on or after February 1, 1974, to be effective prior to such date.

(b) *Pay adjustments within the general wage and salary standard.*—A pay adjustment may be put into effect without prenotification or report to the extent that the total of all pay adjustments for the control year with respect to the appropriate employee unit does not exceed the general wage and salary standard. A pay adjustment put into effect pursuant to the provisions of this paragraph remains subject to review by the Council, which may by order prescribe specific wages or salaries and impose any other requirements which are reasonable and appropriate to accomplish the purposes of the economic stabilization program. If the total of all scheduled pay adjustments exceeds the general wage and salary standard, the provisions of paragraph (c) of this section shall apply to the portion of such pay adjustments in excess of such standard.

(c) *Pay adjustments in excess of the general wage and salary standard.*—(1) *Prior approval required.* To the extent the total of all pay adjustments exceeds the general wage and salary standard during a control year, such pay adjustments shall not be put into effect unless prenotification of such pay adjustments has been submitted to the Council and the Council has approved such pay adjustments. Such prenotification shall include pay adjustments actually made and pay adjustments for which the approval of the Council is required to be obtained. Generally, prenotification shall be submitted not less than 60 days prior to the effective date of such proposed pay adjustment or as soon thereafter as the amount and timing of such proposed pay adjustment have been determined. Pay adjustments which were approved by the

Pay Board or its delegate are considered to have been approved by the Council for purposes of this paragraph.

(2) *Report required.* If the total of all scheduled or proposed pay adjustments for the control year with respect to an appropriate employee unit exceeds the general wage and salary standard, a report shall be filed with the Council not later than 10 days after implementation of the first pay adjustment in a control year, whether or not that portion of the scheduled pay adjustment in excess of the general wage and salary standard is actually put into effect. Such report shall include pay adjustments actually made and pay adjustments scheduled or proposed to be made under the contract or pay practice.

(d) *Application illustrated.*—The application of paragraph (c) of this section is illustrated by the following examples.

Example (1).—In March 1974 employer A negotiates a contract with Union B which calls for a 10 percent pay adjustment in the control year involved. Assuming there are no low wage employees in the appropriate employee unit, the parties must file with the Council not later than 10 days after the implementation of any permissible pay adjustment one Form PB-4 (or Form PB-3A, if appropriate) setting forth the entire negotiated pay adjustment. The submission must indicate the portion thereof which has been implemented. No pay adjustment under the contract may be implemented in excess of the general wage and salary standard unless specifically approved by the Council.

Example (2). In March 1974 Employer A negotiates a contract with Union C which calls for a pay adjustment of 10 percent in the control year involved. The parties agree not to request approval from the Council for amounts in excess of the general wage and salary standard and to implement a pay adjustment of 5.5 percent. Pursuant to § 152.76(c) (2), a report of all negotiated pay adjustments must be filed with the Council not later than 10 days after implementation of the first pay adjustment in the control year.

§ 152.77 Contracts in existence prior to November 14, 1971.

A pay adjustment scheduled to be put into effect under the terms of a contract which existed prior to November 14, 1971, may be put into effect according to the terms of such contract. However, if the total of all pay adjustments for the control year with respect to the appropriate employee unit exceeds the general wage and salary standard, a report of such pay adjustments shall be submitted to the Council not later than 10 days after implementation of the first pay adjustment in the control year. Pay adjustments put into effect pursuant to the provisions of this section are subject to

challenge by any party at interest or by the Council. A challenge by a party at interest shall be submitted to the Council. In the event of a challenge, the terms of the contract shall be allowed to remain in effect unless and until the Council rules otherwise. The Council will review a challenged pay adjustment to determine whether any wage or salary increase is unreasonably inconsistent with the standards and goals of the economic stabilization program. Following such review, the Council may approve

such pay adjustment, prescribe specific wages or salaries, or impose any other requirements which are reasonable and appropriate to accomplish the purposes of the economic stabilization program.

§ 152.78 Imposition of prenotification requirement.

The Council may require that a proposed or scheduled pay adjustment applicable to or affecting a specific firm or appropriate employee unit may not be put into effect without prenotification to

and prior approval of the Council if the Council has reason to believe that such pay adjustment may unduly influence the economy in a destabilizing manner, may affect pay adjustments applicable to or affecting other firms or appropriate employee units, or may be otherwise unreasonably inconsistent with the standards and goals of the Economic Stabilization Program. Prenotification pursuant to this section shall be made in the manner set forth in § 152.74 unless otherwise prescribed by the Council.

[FR Doc. 74-2393 Filed 1-25-74; 11:10 am]

Proposed Rules

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

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 51]

CANNED GREEN BEANS AND CANNED WAX BEANS

Standards of Identity and Quality and Establishment of Fill of Container Standards

The Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission has submitted to the United States for consideration for acceptance a "Recommended International Standard for Canned Green Beans and Canned Wax Beans." The United States, as a member of the Food and Agriculture Organization of the United Nations and of the World Health Organization, is under obligation to consider all Codex Standards. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: Full acceptance; target acceptance; or acceptance with minor deviations. A participating country which concludes that it cannot accept the standard in any of these ways is requested to indicate, with the reasons therefor, the ways in which its requirements differ from the Codex standard. Members of the Commission are requested to notify the Secretariat of the Codex Alimentarius Commission—Joint FAO/WHO Food Standards Programme, FAO, Rome, Italy, of their decision. For some years the United States has had separate definitions and standards of identity (21 CFR 51.10, 51.15) and quality (21 CFR 51.11, 51.16) for canned green beans and canned wax beans, respectively, which differ in several respects from the Recommended International Standard. There is no U.S. standard for fill of container. The basis of this proposal to amend the U.S. standards of identity and quality and to establish standards of fill of container for canned green beans and canned wax beans is that, in the opinion of the Commissioner of Food and Drugs, it will promote honesty and fair dealing in the interest of consumers and facilitate international trade to adopt as far as practicable the recommended world-wide standard for canned green beans and canned wax beans, hereinafter referred to as the Codex standard.

The Codex standard references the Codex "Sampling Plans for Prepackaged Foods, 1969," that were developed by the Codex Committee on Processed Fruits and Vegetables and that are being considered by the Codex Committee on

Sampling and Analysis. The Codex sampling plans, although included by reference in the Codex standard, have not reached the final step of development and therefore may be subject to further modification. The Commissioner, however, believes that this is an opportune time to elicit comments on sampling plans for use in quality and fill of container standards. The Commissioner proposes to limit the sampling plans to Codex Inspection Level II, which is appropriate where disputes arise and enforcement or need for better lot estimate is necessary. Definitions for "lot" and "sample unit" have been expanded to make them more applicable to a wider range of sizes of primary containers.

There are separate standards of identity and quality for canned green beans and canned wax beans. Wax beans are also commonly known as golden or yellow beans. Since the distinguishing characteristic between green beans and wax beans is limited to color, the Commissioner proposes that the present separate standards of identity and quality for green beans and wax beans be combined.

The Codex standard refers to "Vacuum pack" beans in connection with fill of container. The pack is not defined elsewhere in the standard nor are there provisions for labeling. It is not provided for in the U.S. standard or USDA standards for grades of canned green beans and canned wax beans. USDA has no knowledge of the commodity in commerce and is of the opinion the reference is unintentional, and therefore the Commissioner does not propose that pack.

The units of measurements in the U.S. standards are stated in inches, ounces, or in units of the metric system; the Codex standard uses only the metric system. The Commissioner recognizes that the International (Metric) System is used throughout the world and in the United States for technical purposes, and that it may eventually be adopted by this country for common usage. The Commissioner, therefore, proposes that the metric system be used in the U.S. standards of identity, quality, and fill of container for canned beans, with the equivalent units of the U.S. customary system shown parenthetically.

The Codex standard also includes hygiene requirements and certain basic labeling requirements that are not considered a part of food standards under section 401 of the Federal Food, Drug, and Cosmetic Act, which is the legal basis for the promulgation of food standards. Hygiene and the other factors are, however, dealt with under other sections of the Federal Food, Drug, and

Cosmetic Act and, therefore, are not discussed further in this proposal.

Amendment of the U.S. standards of identity and quality and establishment of a U.S. standard for fill of container for canned green beans and canned wax beans will be based upon consideration of the following Codex standard, together with comments and supporting data received, and other available information:

[CAC/RS: 6-1969]

RECOMMENDED INTERNATIONAL STANDARD FOR CANNED GREEN BEANS AND CANNED WAX BEANS

1. *Description*—1.1 *Product definition*—Canned beans is the product (a) prepared from succulent pods of the fresh green bean or wax bean plant, conforming to the characteristics of *Phaseolus vulgaris* L. and *Phaseolus coccineus* L. from which strings, if any, and stems have been removed, (b) packed with water or other suitable liquid medium, nutritive sweeteners, seasoning and other ingredients appropriate to the product, and (c) processed by heat, in an appropriate manner, before or after being sealed in a container, so as to prevent spoilage.

1.2 *Varietal type*. Beans of distinct varietal groups with respect to shape may be designated as:

1.2.1 *Round*: beans having a width not greater than $1\frac{1}{2}$ times the thickness of the bean.

1.2.2 *Flat*: beans having a width greater than $1\frac{1}{2}$ times the thickness of the bean.

1.3 *Colour type*. Beans having distinct varietal differences shall be designated either as:

1.3.1 *Green*; or

1.3.2 *Wax*, (may be additionally designated "golden" or "yellow").

1.4 *Styles*. 1.4.1 *Whole*: whole pods of any length.

1.4.2 *Shoestring*: Sliced Lengthwise; French Style: pods sliced lengthwise or at an angle of 45° or less to the longitudinal.

1.4.3 *Cuts*: transversely cut pods not less than 20 mm long and may contain shorter end pieces which result from cutting.

1.4.4 *Short Cuts*: pieces of pods cut transversely of which 75 percent, by count, or more are less than 20 mm long.

1.4.5 *Diagonal Cut*: approximately 45° to the longitudinal.

1.5 *Designations in accordance with size*. If a term designating size is used, it must be supported by an exact graphic representation of the cross section of the bean pod or by a statement of the maximum diameter in millimeters.

1.6 *Tough string*. A tough string is a string that will support the weight of 250 grammes for five seconds or longer when tested in accordance with the procedure referenced in subsection 7.3.

2. *Essential composition and quality factors*—2.1 *Other ingredients*. 2.1.1 *Butter*: if added, it must amount to not less than 3% m/m* of the final product;

2.1.2 *Salt*;

2.1.3 *Sucrose, invert sugar, dextrose, glucose syrup, dried glucose syrup*;

*The term "m/m" in Codex Standards signifies "by weight."

2.1.4 Dill seeds, or dill flavourings, or similar seasonings, and vinegar; pieces of green or red peppers or mixtures of both and/or tomato not exceeding in total 15% m/m of the product;

2.1.5 Starches—natural (native), physically or enzymatically modified—only when butter is an ingredient.

2.2 *Quality criteria*.—2.2.1 *Definition*. Extraneous plant material: bean leaves and stems and similar plant material.

2.2.2 *Colour*. Except for artificially coloured canned beans, the drained beans shall have normal colour characteristics for canned green beans or canned wax beans. Canned beans containing permitted ingredients and additives shall be considered to be of characteristic colour when there is no abnormal discoloration for the respective substances used.

2.2.3 *Flavour*. Canned beans shall have a normal flavour and odour free from flavours or odours foreign to the product and canned beans with special ingredients shall have a flavour characteristic of that imparted by the beans and the other substances used.

2.2.4 *Texture*. The beans shall not be fibrous and not more than 5% m/m of the units may possess tough strings.

2.2.5 *Defects*. When tested according to the sampling procedure referenced in sub-

section 7.1, canned beans shall be free of defects to the extent indicated below:

2.2.5.1 *Sampling unit size*. (a) for extraneous plant material, entire sample;

(b) for other defects, 340 g of drained beans.

2.2.5.2 *Allowances*. (a) extraneous plant material, not more than 3 pieces per 340 g of drained beans.

(b) all other defects: Not more than 8 unstemmed units per 340 g.

Not more than 10% m/m of damaged beans of which amount not more than one-half may be materially damaged by insect or pathological injury.

2.2.6 *Classification of "Defectives"*. A container that fails to meet one or more of the applicable quality requirements as set out in subsections 2.2.2 through 2.2.5 (except extraneous plant material which is based on an average of the entire sample) shall be considered a "defective".

2.2.7 *Acceptance*. A lot will be considered as meeting the applicable quality requirements referred to in sub-section 2.2.6 when:

(a) for those requirements which are not based on averages—the number of "defectives," as defined in sub-section 2.2.6, does not exceed the acceptance number (c) of the appropriate sampling plan (AQL-6.5) in the Sampling Plans for Prepackaged Foods (1969); and

(b) the requirement which is based on sample average is complied with.

3. *Food Additives*

Maximum level of use

3.1	Monosodium glutamate.....	Not limited.
3.2	Vegetable gums, as follows: ¹	
3.2.1	Arabic gum.....	10 g/kg of the additives specified under 3.2 to 3.4 inclusive, singly or in combination. ²
3.2.2	Carrageenan.....	
3.2.3	Furcellaran.....	
3.2.4	Guar gum.....	
3.3	Alginates (Ca, K, Na, NH ₄) ¹	
3.3.1	Propylene glycol alginate ¹	
3.4	Modified starches, as follows:	
3.4.1	Acid-treated starches.....	
3.4.2	Alkali-treated starches.....	
3.4.3	Bleached starches.....	
3.4.4	Distarch phosphate (sodium trimetaphosphate treated).	
3.4.5	Distarch phosphate, phosphated.....	12
3.4.6	Monostarch phosphate.....	
3.4.7	Starch acetate.....	100 mg/kg, singly or in combination.
3.4.8	Starch, hydroxypropyl.....	
3.4.9	Distarch adipate, acetylated.....	
3.4.10	Distarch glycerol, hydroxypropyl.....	
3.4.11	Oxidized starches.....	
3.5	<i>Colours</i>	
3.5.1	Wool Green BS (Green S) CI 44 090. ¹	
3.5.2	Tartrazine CI 19 140 ¹	

¹ Temporarily endorsed.
² May be used only when butter is an ingredient.

shall be well filled with beans and, except for "Vacuum pack" beans, the product (including packing medium) shall occupy not less than 90% of the water capacity of the container. The water capacity of the container is the volume of distilled water at 20°C which the sealed container will hold when completely filled.

5.1.2 *Classification of "Defectives"*
A container that fails to meet the requirement for minimum fill (90 percent container capacity) of subsection 5.1.1 shall be considered a "defective".

5.1.3 *Acceptance*
A lot will be considered as meeting the requirement of sub-section 5.1.1 when the number of "defectives", as defined in sub-section 5.1.2, does not exceed the acceptance

number (c) of the appropriate sampling plan (ACL-6.5) in the Sampling Plans for Prepackaged Foods (1969).

5.1.4 *Minimum Drained Weight*
5.1.4.1 The drained weight of the product shall be not less than 55% of the weight of distilled water at 20°C which the sealed container will hold when completely filled, except for beans in "whole" or "sliced lengthwise" style which shall be not less than 50%.

5.1.4.2 The requirements for minimum drained weight shall be deemed to be complied with when the average drained weight of all containers examined is not less than the minimum required, provided that there is no unreasonable shortage in individual containers.

6. *Labeling*. In addition to Sections 1, 2, 4 and 6 of the General Standard for the Labeling of Prepackaged Foods (Ref. CAC/RS 1-1969), the following specific provisions apply:

6.1 *The Name of the Food*. 6.1.1 The name of product shall include:

(a) the designation: "green beans" or "wax beans", as appropriate;

(b) a declaration of any seasoning which characterizes the product, e.g., "With X", as appropriate.

6.1.2 The following shall be so stated on the label as to be easily discernible by the consumer:

The style: "Whole", "Shoestring", "Sliced Lengthwise", "French Style", "Cuts", "Short Cuts", or "Diagonal Cut", as appropriate.

6.1.3 The name of the product may include the varietal type "Round" or "Flat", if the product complies with the appropriate requirements set out in sub-section 1.2.

6.2 *List of ingredients*. A complete list of ingredients shall be declared on the label in descending order of proportion in accordance with sub-sections 3.2(b), (c) and (d) of the General Standard for the Labeling of Prepackaged Foods.

6.3 *Net contents*. The net contents shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold.

6.4 *Name and address*. The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

6.5 *Country of Origin*. 6.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.

6.6 *Additional requirements*. 6.6.1 *Size Representation*.

If a term designating size is used, it must be supported by an exact graphic representation of the maximum cross section of the bean pods or by a statement of the maximum diameter in millimeters.

7. *Methods of Analysis and Sampling*. The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Method of sampling*. Sampling shall be in accordance with the Sampling Plans for Prepackaged Foods (1969).

7.2 *Determination of drained weight*. According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, CAC/RM 36-1970, Determination of Drained Weight—Method I).

Results are expressed as % m/m calculated on the basis of the mass of distilled water at 20°C which the sealed container will hold when completely filled.

7.3 *Tough string test*. According to the FAO/WHO Codex Alimentarius method

4. *Hygiene*. 4.1 It is recommended that the product covered by the provisions of this standard be prepared in accordance with the International Code of Hygienic Practice for Canned Fruit and Vegetable Products recommended by the Codex Alimentarius Commission (Ref. CAC/RCP 2-1969).

4.2 To the extent possible in good manufacturing practice the product shall be free from objectionable matter.

4.3 The product shall not contain any pathogenic microorganisms or any toxic substance originating from microorganisms.

4.4 The product shall have received a processing treatment sufficient to destroy all spores of *Clostridium botulinum*.

5. *Weights and Measures*—5.1 *Fill of Container*—5.1.1 *Minimum Fill*. The container

(FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, CAC/RM 39-1970, Tough String Test).
Results are expressed as % m/m of pods containing tough strings.

In many respects the provisions of the present U.S. standards and the Codex standard are identical, but in certain instances there are significant variations. The following is a comparison of what, in the opinion of the Commissioner, are the primary differences between the U.S. standards and the Codex standard on which the Commissioner particularly requests comments with available supporting data. Following each item of comparison is the action the Commissioner proposes to take; the Commissioner may of course modify the following proposed action in light of comments received:

COMPARISON OF IDENTITY ASPECTS AND PROPOSED COURSE OF ACTIONS

1. **Botanical name.** The U.S. standard is silent on the botanical or scientific name for green beans or wax beans.

The Commissioner proposes that the botanical or scientific names for green beans and wax beans be the current internationally accepted nomenclature *Phaseolus vulgaris* L. and *Phaseolus coccineus* L., as provided for by Codex (1.1).

2. **Water.** 21 CFR 51.10(a) provides for water as a mandatory ingredient.

Codex (1.1) states that the product is packed with water or other suitable liquid medium.

The Commissioner proposes that the U.S. standard be amended to provide for water as an optional ingredient on the basis of Codex.

3. **Varietal type.** The U.S. standard is silent with respect to varietal type, that is, whether the beans are round or flat.

The Commissioner proposes that the definitions for varietal types contained in Codex (1.2) be included in the U.S. standard.

4. **Styles of pack—(a) Whole.** 21 CFR 51.10(a)(1) defines whole pods as including pods which after removal of either or both ends are less than 2¾ in. in length, or transversely cut pods not less than 2¾ in. in length.

The Commissioner proposes to define whole style, based upon Codex (1.4.1), as containing whole pods of any length.

(b) **Shoestring, sliced lengthwise; French style.** 21 CFR 51.10(a)(2) defines this style as pods sliced lengthwise, and 21 CFR 51.10(d)(2) provides for the names for such style as "sliced lengthwise" or "French style."

Codex (1.4.2) defines as pods sliced lengthwise or at an angle of 45° or less to the longitudinal and provides for the name "shoestring" as an alternative to "sliced lengthwise" or "French style."

The Commissioner proposes to provide for the Codex definition and the alternative name "shoestring."

(c) **Cuts.** 21 CFR 51.10(a)(3) sets a maximum length of 2¾ in. but not less than ¾ in. in length for such style, and 21 CFR 51.10(d)(3) provides for the name "cut" as an alternative to "cuts."

The Commissioner proposes to delete the maximum length requirement and

the name "cut," to be consistent with Codex (1.4.3 and 6.1.2).

(d) **Short cuts.** 21 CFR 51.10(a)(4) provides that not more than 1 percent by count of the pods for such style be more than 1¼ in. in length.

Codex (1.4.4) contains no such limitation.

The Commissioner proposes to retain the limitation as it provides for a more explicit definition. The Commissioner further proposes to delete the alternative names "short cut", or "---- inch cut", or "---- inch cuts", as provided for in 21 CFR 51.10(d)(4), to be consistent with Codex.

(e) **Diagonal cut.** Codex (1.4.5) provides for the optional style "diagonal cut" that is not in the U.S. standard.

The Commissioner proposes to adopt such style to be consistent with the Codex standard.

(f) **Mixture.** 21 CFR 51.10(a)(5) provides for any mixture of two or more of the styles provided for in the standard.

The Commissioner proposes that this style and the labeling requirement be retained in order to allow proper labeling of lots that may not be in technical compliance with the limitations on length and cut, and that diagonal cut be an additional optional ingredient of such style.

5. **Optional ingredients—(a) Emulsifiers and stabilizers.** 21 CFR 51.10(c)(7) provides for safe and suitable emulsifiers or stabilizers, or both, when butter or margarine is added.

Codex (2.1.5) provides for natural (native), physically and enzymatically modified starches without limits, only when butter is an ingredient. Also, in 3.2, 3.3, and 3.4, Codex provides for specific safe and suitable vegetable gums, alginates, and certain chemically modified starches, all with a maximum level of use.

The Commissioner proposes no change. (b) **Sweetening agents.** 21 CFR 51.10(b) provides for sugar and dextrose.

Codex (2.1.3) provides for invert sugar, glucose syrup, and dried glucose syrup in addition to sugar (sucrose) and dextrose.

The Commissioner proposes that safe and suitable nutritive carbohydrate sweeteners be permitted as optional ingredients.

(c) **Color additives.** The U.S. standard does not provide for the addition of coloring.

Codex (3.5) lists two artificial color additives (Wool Green and Tartrazine) at 100 mg/kg, singly or in combination. Since we have no safety data on Wool Green, any imports or use in this country would be prohibited. Imports using Tartrazine would have to use the color from a certified batch, hence accepting color would not ease the import burden very much.

The Commissioner proposes that coloring not be provided for.

(d) **Garnishes.** The U.S. standard contains no limitation on the amount of garnish that may be added.

The Commissioner proposes that the amount of garnish added shall not exceed

15 percent by weight of the product, as provided for by Codex (2.1.4).

(e) **Other optional ingredients.** 21 CFR 51.10(b) and (c)(6) provides for the following optional ingredients which are not included in the Codex standard: Disodium inosinate, disodium guanylate, hydrolyzed vegetable protein, autolyzed yeast extract, lemon juice and concentrated lemon juice.

The Commissioner proposes that such optional ingredients continue to be provided for in the absence of a basis for deletion from the standard.

6. **Labeling—(a) Vertical and asparagus packs.** 21 CFR 51.10(d)(1) provides that if the pods are packed parallel to the sides of the container, the word "whole" shall be preceded or followed by the words "vertical pack", except that when the pods are cut at both ends and are of substantially equal lengths, the words "asparagus style" may be used in lieu of the words "vertical pack".

The Commissioner proposes that the label declaration "vertical pack" and "asparagus style" be optional. While these terms are not provided for in Codex labeling requirements (6.), such statements are authorized in 6.1 of the "Recommended International General Standard for the Labeling of Prepackaged Foods."

(b) **Size designation.** Codex (1.5 and 6.6.1) provides that if a term designating size is used, it must be supported by an exact graphic representation of the maximum cross section of the bean pods or by a statement of the maximum diameter in millimeters.

The U.S. standard has no such provision.

The Commissioner proposes that the Codex provision be included in the U.S. standard, except that the diameter be designated in millimeters and parenthetically in inches.

(c) **Salt, monosodium glutamate, disodium inosinate, disodium guanylate, hydrolyzed vegetable protein, and autolyzed yeast extract.** 21 CFR 51.10(d)(7) requires that when one or more of such optional ingredients are used, the label shall bear the statement "---- added" or "with added ----", the blank to be filled in with the name(s) of the ingredient(s) used.

Codex (6.2) requires that there be a complete listing of ingredients on the label in descending order of proportion.

The Commissioner proposes that 21 CFR 51.10(d)(7) be deleted in view of the proposed requirement for complete listing of optional ingredients (item 6 (e)).

(d) **Spice, flavoring, seasoning, and garnishes.** 21 CFR 51.10(d)(6) and (8) requires that when any spice or flavoring or optional seasoning ingredient is used, they shall be stated on the label in a specific manner.

Codex (6.1.1(b)) states that the name of the product shall include a declaration of any seasoning that characterizes the product, e.g., "with X", as appropriate. Subsection 3.2(c) of the "Recommended International General Standard for the Labeling of Prepackaged Foods" refer-

enced in Codex (6.2) provides that in the ingredient statement added spice may be declared as "spices" and added flavoring as "flavors" in lieu of the common or usual name.

The Commissioner proposes that 21 CFR 51.10(d) (6) and (8) be deleted in view of the proposed requirement for a complete listing of optional ingredients, and that the name of the food shall include a declaration of any flavoring that characterizes the product as specified in 21 CFR 1.12 and a declaration of any spice, seasoning, or garnishing that characterizes the product.

(e) *Ingredient statement.* 21 CFR 51.10(d) and (e) include specific requirements for the listing of the optional ingredients used, except sugar and dextrose which are not presently required to be declared under the standard.

Codex (6.2) requires that there be a complete listing of ingredients in descending order of proportion.

The Commissioner proposes that the U.S. standard be amended to require a complete listing of the optional ingredients used according to 21 CFR Part 1. Beans are a mandatory ingredient and cannot be required to be included in the ingredient statement. This is of no material importance, however, since the information is conveyed in the name of the food.

7. *Processing procedure.* 21 CFR 51.10 (a) requires that the product be sealed in a container and so processed by heat to prevent spoilage.

Codex (1.1) states that the product is processed by heat in an appropriate manner before or after being sealed in a container so as to prevent spoilage.

The Commissioner proposes to provide for appropriate heat processing before or after the product is sealed in a container.

COMPARISON OF THE QUALITY ASPECTS AND PROPOSED COURSE OF ACTIONS

1. *Color criteria.* The U.S. standard has no specific provision for color criteria.

Codex (2.2.2) states that except for artificially colored canned beans, the drained beans shall have normal color characteristics for canned green beans or canned wax beans. Canned beans containing permitted ingredients and additives shall be considered to be of characteristic color when there is no abnormal discoloration for the respective substances used.

The Commissioner proposes not to provide for color criteria, in that the Codex language is not specific enough for enforcing a legal requirement.

2. *Flavor criteria.* The U.S. standard has no provisions for flavor criteria.

Codex (2.2.3) states that canned beans shall have normal flavor and odor free from flavors or odors foreign to the product. Canned beans with special ingredients shall have a flavor characteristic of that imparted by the beans and the other substances used.

The Commissioner proposes not to provide for flavor criteria, in that abnormal odor or flavor would make the

food adulterated under section 402 of the act.

3. *Specific requirements on defects in canned beans—(a) Length of cut and mixtures.* 21 CFR 51.11(a) (1) presently states that for cut beans and mixtures of two or more optional forms, not more than 60 units per 12 oz. drained weight shall be less than 1/2 in. long: *Provided*, That where the number of units per 12 oz. drained weight exceeds 240, not more than 25 percent by count of the total units are less than 1/2 in. long.

The Codex standard does not provide for specific limits on the number of units less than 1/2 in. long permitted in canned beans.

The Commissioner proposes that this requirement be retained in the U.S. standard as a basis for enforcing a legal requirement.

(b) *Seeds.* 21 CFR 51.11(a) (2) presently requires that the trimmed pods contain not more than 25 percent by weight of seed and pieces of seed.

The Codex standard does not provide a limit on the percentage of seed in the trimmed pods. Such beans would ordinarily be considered substandard in quality because of fiber development and the presence of tough strings. In addition, the walls of the pods will have deteriorated to such an extent that the beans will not be considered succulent.

The Commissioner proposes to amend the U.S. quality standard by deleting this requirement which is now deemed unnecessary.

(c) *Tough strings.* 21 CFR 51.11(a) (3) presently states that in case there are present pods or pieces of pods 27/64 in. or more in diameter, there shall not be more than 12 strings per 12 oz. of drained weight which support 1/2 lb. (226.8 g) for 5 seconds or longer.

Codex (2.2.4) states that not more than 5 percent by weight of the units may possess tough strings. Codex Methods of Analysis for Processed Fruits and Vegetables, tough string test (CAC/RM 39-1970), page 10, provides that a string regarded as tough shall support 250 g for at least 5 seconds.

The Commissioner proposes that the size limitation of 27/64 in. be deleted. In the opinion of the Commissioner, the size of the bean should not be a factor in determining whether the bean contains tough strings; beans regardless of size should be examined for tough strings. Further, the Commissioner proposes to adopt the Codex requirement, as it concerns the amount of tough strings, in lieu of the present U.S. requirement. In his opinion, the Codex requirement is more reasonable in that it does not vary as the diameter of the unit varies. Also, experience has shown that an excessive amount of tough strings usually yields an excessive amount of fibrous material.

(d) *Fibrous material.* 21 CFR 51.11(a) (4) presently states that the deseeded pods shall not contain more than 0.15 percent by weight of fibrous material.

Codex (2.2.4) states that the beans shall not be fibrous.

The Commissioner proposes that the requirement in the U.S. standard be re-

tained as it provides a specific procedure and level of fibrous material for determining compliance in contrast to a general requirement in Codex.

(e) *Blemished units.* 21 CFR 51.11(a) (5) presently permits not more than 8 percent by count of blemished units. A unit is considered blemished when the aggregate blemished area exceeds the area of a circle 1/8 in. in diameter.

Codex (2.2.5.2) provides that not more than 10 percent by weight be damaged beans of which amount not more than one-half may be materially damaged by insect or pathological injury.

The Commissioner proposes to retain the U.S. definition of a blemished unit and adopt the Codex levels.

(f) *Unstemmed units.* 21 CFR 51.11(a) (6) presently permits not more than 6 unstemmed units per 12 oz. of drained weight.

Codex (2.2.5.2) provides for not more than 8 unstemmed units per 340 g of drained beans.

The Commissioner proposes to allow for 8 unstemmed units per 340 g.

(g) *Loose seeds.* 21 CFR 51.11(a) (7) presently states that the combined weight of loose seed and pieces of seed shall not be more than 5 percent of the drained weight. This provision does not apply in case the green bean ingredient is pods sliced lengthwise.

The Codex standard does not provide for a limit on the percentage of loose seeds and pieces of seed in the drained material.

The Commissioner proposes to delete the U.S. requirement which is deemed unnecessary.

(h) *Extraneous matter.* 21 CFR 51.11 (a) (8) presently states that the combined weight of leaves, detached stems, and other extraneous vegetable matter shall not be more than 0.6 oz. per 60 oz. drained weight. Extraneous plant material is defined in the Codex standard (2.2.1) as bean leaves and stems and similar plant material.

In allowances (2.2.5.2(a)), Codex provides for not more than 3 pieces of extraneous plant material per 340 g of drained beans.

The Commissioner proposes the adoption of the Codex requirement.

4. *Method for determining quality.* 21 CFR 51.11(b) presently contains specific methods for determining the quality of canned green beans which include the use of woven-wire cloth sieve complying with specifications set forth under "2380 Micron (No. 8)" in Table I of "Standard Specifications for Sieves," published March 1, 1940, in L.C. 584 of the U.S. Department of Commerce, National Bureau of Standards.

The Commissioner proposes that the methods of analysis in the U.S. quality standard be retained. He further proposes that the reference to specifications for cloth sieve, as specified in 21 CFR 51.11(b) (1), be amended in accordance with the "Definitions of Terms and Explanatory Notes," page xviii, of the "Official Methods of Analysis of the AOAC," 11th edition, 1970, except that the nominal sieve size opening be 2.36 mm instead

of 2.38 mm and that the angle of the sieve to facilitate drainage be stated as approximately 17-20°. It is further proposed that the method for strings test, 21 CFR 51.11(b) (8), be amended in accordance with Codex (7.3) by substituting 250 g weight for the ½ pound (226.8 g) weight presently prescribed in the U.S. standard.

21 CFR 51.11(b) (10) provides that not less than 60 oz. of drained weight be used in determining combined weight of extraneous vegetable material.

Codex provides that when tested according to the sampling procedure, Sampling Plans for Prepackaged Foods (1969), the allowance for extraneous plant material shall not be more than 3 pieces per 340 g of drained beans based on an average of the entire sample.

In accordance with the proposed adoption of the Codex Sampling Plans, the Commissioner proposes that 21 CFR 51.11(b) (10) be amended to comply with the Codex procedure.

5. *Substandard quality labeling.* 21 CFR 51.11(c) provides for substandard quality labeling.

Codex has no provision for labeling canned beans that are substandard in quality and is silent on what disposition is to be made of canned beans that do not meet the applicable quality requirements.

The Commissioner proposes that the substandard quality labeling provision be retained.

FILL OF CONTAINER—PROPOSED COURSE OF ACTION

The U.S. has not established a fill of container standard for either canned green beans or canned wax beans. The following is a discussion of the Codex standard for fill of container and the proposed course of action:

1. *Minimum fill.* Codex (5.1.1) states that the container shall be well filled with beans and, except for "Vacuum pack" beans, the product (including packing medium) shall occupy not less than 90 percent of the water capacity of the container. A container that fails to meet the requirement for minimum fill (90 percent container capacity) shall be considered a defective (Codex 5.1.2). A lot, according to Codex (5.1.3), will be considered as meeting the requirements of minimum fill when the number of defectives does not exceed the acceptance number (c) of the appropriate sampling plan (AQL-6.5) in the Sampling Plans for Prepackaged Foods (1969).

In the opinion of the Commissioner, the Codex minimum fill of container requirement is reasonable and consistent with such requirements established by the U.S. for many canned fruits, canned peas, and canned corn. The Commissioner, therefore, proposes to adopt the Codex 90 percent fill of container requirement omitting the reference to "Vacuum pack" beans for the reasons previously discussed herein.

2. *Minimum drained weight.* Codex (5.1.4.1) states that the drained weight of the product shall be not less than 55

percent of the weight of distilled water at 20°C. which the sealed container will hold when completely filled, except for beans in whole or in sliced lengthwise style which shall be not less than 50 percent. The requirements for minimum drained weight shall be deemed to be complied with when the average drained weight of all containers examined is not less than the minimum required.

The Commissioner proposes that compliance for minimum drained weight be based on the Codex procedure. The Commissioner requests available factual data, including where appropriate, statistical and cost benefit analyses to establish a quantitative minimum requirement below which no container shall fall in lieu of the Codex provision that there be no unreasonable shortage in individual containers.

3. *Substandard fill of container labeling provision.* Such labeling provision is a part of all of U.S. fill of container standards.

The Commissioner proposes that such provision be included in the standard to provide a means of disposing of canned green beans or canned wax beans that do not meet the minimum fill of container requirements. The Commissioner also proposes to provide for substandard labeling when a lot is defective because of low drained weights.

Accordingly, the Commissioner has determined that the existing standards for canned green beans and canned wax beans be combined and amended to provide for certain features, which include a fill of container provision, based on the Codex standard, that would, in his opinion, promote honesty and fair dealing in the interest of consumers.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 1055, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371(e)) and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs proposes to amend Part 51 as follows:

1. By revising § 51.10 to read as follows:

§ 51.10 Canned green beans and canned wax beans; identity; label statement of optional ingredients.

(a) *Definition.* Canned beans is the product prepared from succulent pods of the fresh green bean or wax bean plant, conforming to the characteristics of *Phaseolus vulgaris* L. and *Phaseolus coccineus* L. from which strings, if any, and stems have been removed. The optional color and varietal types and styles of the bean ingredient are set forth in paragraph (b) of this section. The product is packed with water or other suitable liquid medium to which may be added one or more of the other optional ingredients set forth in paragraph (c) of this section. Such food is so processed by heat, in an appropriate manner before or after being sealed in a container, as to prevent spoilage.

(b) *Types and styles of packs.* The op-

tional color and varietal types and styles of the bean ingredient referred to in paragraph (a) of this section are:

(1) *Optional color types.* The beans shall be one of the following distinct varietal color types:

- (i) Green; or
- (ii) Wax.

(2) *Optional varietal types—(i) Round.* Beans having a width not greater than 1½ times the thickness of the bean; or

(ii) *Flat.* Beans having a width greater than 1½ times the thickness of the bean.

(3) *Optional styles—(i) Whole.* Whole pods of any length.

(ii) *Shoestring or sliced lengthwise or French style.* Pods sliced lengthwise or at an angle of 45° or less to the longitudinal.

(iii) *Cuts.* Transversely cut pods not less than 20 mm (0.80 in.) long and which may contain the shorter end pieces that result from cutting such pods.

(iv) *Short cuts.* Pieces of pods cut transversely of which 75 percent, by count, or more are less than 20 mm (0.80 in.) in length and not more than 1 percent by count are more than 32 mm (1¼ in.) in length.

(v) *Diagonal cuts.* Pods cut approximately 45° to the longitudinal.

(vi) *Mixture.* Any mixture of two or more of the styles specified in paragraph (a) (3)(i) to (v), inclusive, of this section.

(c) *Optional ingredients.* The following safe and suitable optional ingredients may be used:

- (1) Salt.
- (2) Monosodium glutamate.
- (3) Disodium inosinate.
- (4) Disodium guanylate.
- (5) Hydrolyzed vegetable protein.
- (6) Autolyzed yeast extract.
- (7) Nutritive carbohydrate sweeteners.
- (8) Spice.
- (9) Flavoring (except artificial).

(10) Pieces of green or red peppers or mixtures of both, either of which may be dried, or other vegetables, not exceeding in total 15 percent by weight of the finished product.

(11) Vinegar.

(12) Lemon juice or concentrated lemon juice.

(13) Mint leaves.

(14) Butter or margarine in a quantity of not less than 3 percent by weight of the finished product. When butter or margarine is added, emulsifiers or stabilizers, or both, may be added; no spice or flavoring simulating the color or flavor imparted by butter or margarine is used.

(d) *Labeling.* The name of the product is "green beans" or "wax beans", as appropriate. Wax beans may be additionally designated "golden" or "yellow". The name of the food shall include a declaration of any flavoring that characterizes the product as specified in § 1.12 of this chapter and a declaration of any spice, seasoning or garnishing that characterizes the product, e.g., "dill flavored"; "with added spice", or in lieu of the word "spice", the common name

of the spice; "seasoned with green peppers". The name of the product may include the word "stringless", where the beans are in fact stringless. The name may also include the optional varietal type when the product complies with paragraph (b)(2) of this section. The optional style of the bean ingredient as set forth in paragraph (b)(3) of this section shall appear as part or in conjunction with the name of the product, except that when the product consists of a mixture as provided for in paragraph (b)(3)(vi) of this section, the name of the optional style shall be "Mixture of _____", the blank to be filled in with the combination of the names designating the optional styles present and arranged in the order of predominance, if any, by weight of such ingredients. If the product consists of whole beans as provided for in paragraph (b)(3)(i) of this section and the pods are packed parallel to the sides of the container, the word "whole" may be preceded or followed by the words "vertical pack"; or if the pods are cut at both ends and are of substantially equal lengths, the words "asparagus style" may be used in lieu of the words "vertical pack". If a term designating size is used, it must be supported by an exact graphic representation of the cross section of the bean pod or by a statement of the maximum diameter in millimeters with the decimal or common fraction of an inch parenthetically.

(e) *Ingredient statement.* The name of each optional ingredient used shall be declared on the label as required by the applicable sections of 21 CFR Part 1.

2. By revising § 51.11 to read as follows:

§ 51.11 Canned green beans and canned wax beans; quality; label statement of substandard quality.

The standard of quality for canned beans is as follows:

(a) When tested by the method prescribed in paragraph (b) of this section:

(1) In the case of cut beans under § 51.10(b)(3)(iii) and mixtures of two or more optional forms under § 51.10(b)(3)(vi), not more than 60 units per 340 g (12 oz.) drained weight are less than 13 mm (0.50 in.) long: *Provided*, That where the number of units per 340 g (12 oz.) drained weight exceeds 240, not more than 25 percent by count of the total units are less than 13 mm (0.50 in.) long.

(2) Not more than 5 percent by weight of the units may possess strings that will support the weight of 250 g (8.8 oz.) for 5 seconds or longer.

(3) The deseeded pods contain not more than 0.15 percent by weight of fibrous material.

(4) There are not more than 10 percent by weight of blemished units of which amount not more than one-half may be materially damaged by insect or pathological injury. A unit is considered blemished when the aggregate blemished area exceeds the area of a circle 3 mm ($\frac{3}{8}$ in.) in diameter.

(5) there are not more than 8 unstemmed units per 340 g (12 oz.) drained weight.

(6) The combined number of leaves, detached stems, and other extraneous vegetable matter shall not average more than 3 pieces per 340 g (12 oz.) drained beans.

(b) Canned green beans shall be tested by the following method to determine whether they meet the requirements of paragraph (a) of this section:

(1) Distribute the contents of the container over the meshes of a U.S. No. 8 circular sieve with openings of 2.36 mm (0.0937 in.) which has been previously weighed. The diameter of the sieve is 20.3 cm (8 in.) if the quantity of the contents of the container is less than 1.36 kg (3 lbs.) and 30.5 cm (12 in.) if such quantity is 1.36 kg (3 lbs.) or more. The bottom of the sieve is woven-wire cloth which complies with the specifications for such cloth set forth in the "Definitions of Terms and Explanatory Notes," p. xviii, of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Edition, 1970.¹ Without shifting the material on the sieve, incline the sieve 17-20° to facilitate drainage. Two minutes from the time drainage begins, weigh the sieve and the drained material. Record in grams the weight so found, less the weight of the sieve, as the drained weight.

(2) Pour the drained material from the sieve into a flat tray and spread it in a layer of fairly uniform thickness. Count the total number for units. For the purpose of this count; loose seeds, pieces of seed, loose stems, and extraneous material are not to be included. Divide the number of units by the drained weight recorded in subparagraph (1) of this paragraph and multiply by 340 to obtain the number of units per 340 g (12 oz.) drained weight.

(3) Examine the drained material in the tray, counting and recording the number of blemished units, number of unstemmed units; and, in case the material consists of the optional ingredient specified in § 51.10(b)(3)(iii) or (b)(3)(vi), count and record the number of units which are less than 13 mm (0.50 in.) long. If the number of units per 340 g (12 oz.) is 240 or less, divide the number of units which are less than 13 mm (0.50 in.) by the drained weight recorded in paragraph (b)(1) of this section and multiply by 340 to obtain the number of such units per 340 g (12 oz.) drained weight. If the number of units per 340 g (12 oz.) exceeds 240, divide the number of units less than 13 mm (0.50 in.) long by the total number of units and multiply by 100 to determine the percentage by count of the total units which are less than 13 mm (0.50 in.) long.

(i) Divide the number of blemished units by the total number of units in the container and multiply by 100 to

¹ Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

obtain the percentage by count of blemished units in the container.

(ii) Divide the number of unstemmed units by the drained weight recorded in paragraph (b)(1) of this paragraph and multiply by 340 to obtain the number of unstemmed units per 340 g (12 oz.) of drained weight.

(4) Remove from the tray the extraneous vegetable material, count, record count, and return to tray.

(5) Remove from the tray one or more representative samples of 99 to 113 g ($3\frac{1}{2}$ to 4 ounces) covering each sample as taken to prevent evaporation.

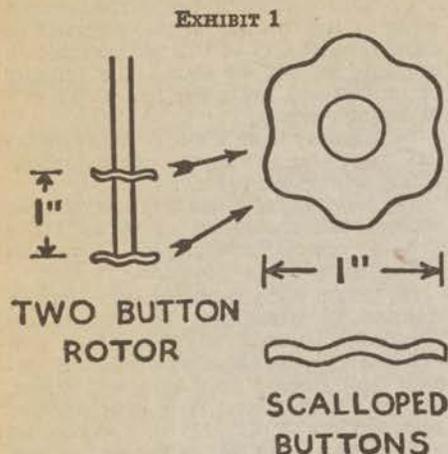
(6) From each representative sample selected in paragraph (b)(5) of this paragraph, discard any loose seed and extraneous vegetable material and detach and discard any attached stems. Except with optional style of ingredient specified in § 51.10(b)(3)(ii) (pods sliced lengthwise), trim off, as far as the end of the space formerly occupied by the seed, any portion of pods from which the seed has become separated. Remove and discard any portions of seed from the trimmings and reserve the trimmings for paragraph (b)(8) of this section. Weigh and record the weight of the trimmed pods. Deseed the trimmed pods and reserve the deseeded pods for paragraph (b)(8) of this section. Remove strings from the pods during the deseeding operation. Reserve these strings for testing as prescribed in paragraph (b)(7) of this section. In the case of pods sliced lengthwise, remove seed and pieces of seed and reserve the deseeded pods for use as prescribed in paragraph (b)(8) of this section.

(7) If strings have been removed for testing, as prescribed in paragraph (b)(6) of this section, test them as follows:

Fasten clamp, weight to 250 g (8.8 oz.), to one end of the string, grasp the other end with the fingers (a cloth may be used to aid in holding the string), and lift gently. Count the string as tough if it supports the 250 g (8.8 oz.) weight for at least 5 seconds. If the string breaks before 5 seconds, test such parts into which it breaks as are 13 mm ($\frac{1}{2}$ in.) or more in length; and if any such part of the string supports the 250 g (8.8 oz.) weight for at least 5 seconds, count the string as tough. Divide the number of tough strings by the weight of the sample recorded in subparagraph (5) of this paragraph and multiply by 340 to obtain the number of tough strings per 340 g (12 oz.) drained weight.

(8) Combine the deseeded pods with the trimmings reserved in paragraph (b)(6) of this section, and, if strings were tested as prescribed in paragraph (b)(7) of this section, add such strings broken or unbroken. Weigh and record weight of combined material. Transfer to the metal cup of a malted-milk stirrer and mash with a pestle. Wash material adhering to the pestle back into cup with 200 cc. of boiling water. Bring mixture nearly to a boil, add 25 cc. of 50 percent (by weight) sodium hydroxide solution and bring to a boil. (If foaming is excessive, 1 cc. of capryl alcohol may be added.) Boil for 5 minutes, then stir for 5 minutes with a malted-milk stirrer capable of a no-load speed of at least 7,200 rpm.

Use a rotor with two scalloped buttons shaped as shown in Exhibit 1 as follows:



Transfer the material from the cup to a previously weighed 30-mesh monel metal screen having a diameter of about 9-10 cm (3½ to 4 in.) and side walls about 2.5 cm (1 in.) high, and wash fiber on the screen with a stream of water using a pressure not exceeding a head (vertical distance between upper level of water and outlet of glass tube) of 152 cm (60 in.), delivered through a glass tube 7.6 cm (3 in.) long and 3 mm (¼ in.) inside diameter inserted into a rubber tube of 6 mm (¼ in.) inside diameter. Wash the pulpy portion of the material through the screen and continue washing until the remaining fibrous material, moistened with phenolphthalein solution, does not show any red color after standing 5 minutes. Again wash to remove phenolphthalein. Dry the screen containing the fibrous material for 2 hours at 100°C., cool, weigh, and deduct weight of screen. Divide the weight of fibrous material by the weight of combined de-seeded pods, trimmings, and strings and multiply by 100 to obtain the percentage of fibrous material.

(9) If the drained weight recorded in paragraph (b) (1) of this section was less than 340 g (12 oz.), open and examine separately for extraneous material, as directed in paragraph (b) (4) of this section, additional containers until a total of not less than 340 g (12 oz.) of drained material is obtained. To determine the number of pieces of extraneous vegetable material per 340 g (12 oz.) of drained weight, total the number of pieces of extraneous vegetable material found in all containers opened, divide this sum by the sum of the drained weights in these containers and multiply by 340.

(c) Sampling and acceptance procedure: A lot is to be considered acceptable when the number of "defectives" does not exceed the acceptance number in the sampling plans given in paragraph (c) (2) of this section, except extraneous plant material, which is based on an average of all the containers examined.

(1) Definitions of terms to be used in

the sampling plans in paragraph (c) (2) of this section are as follows:

(i) *Lot*. A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

(ii) *Lot size*. The number of primary containers or units in the lot.

(iii) *Sample size (n)*. The total number of sample units drawn for examination from a lot.

(iv) *Sample unit*. A container, the entire contents of a container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for the examination or testing as a single unit.

(v) *Defective*. Any sample unit shall be regarded as defective when any of the defects or conditions specified in the quality under paragraph (a) of this section and fill of container under § 51.12 standards are present in excess of the stated tolerances.

(2) Sampling plans and acceptance procedure:

ACCEPTABLE QUALITY LEVEL 6.5

Lot size (primary containers)	Size of container		
	n	c	
Net weight equal to or less than 1 kg (2.2 lb)			
4,800 or less	13	2	3
4,801 to 24,000	21	3	4
24,001 to 48,000	29	4	6
48,001 to 84,000	48	6	9
84,001 to 144,000	84	13	13
144,001 to 240,000	126	19	
Over 240,000	200		
Net weight greater than 1 kg (2.2 lb) but not more than 4.5 kg (10 lb)			
2,400 or less	13	2	3
2,401 to 15,000	21	3	4
15,001 to 24,000	29	4	6
24,001 to 42,000	48	6	9
42,001 to 72,000	84	13	13
72,001 to 120,000	126	19	
Over 120,000	200		
Net weight greater than 4.5 kg (10 lb)			
600 or less	13	2	3
601 to 2,000	21	3	4
2,001 to 7,200	29	4	6
7,201 to 15,000	48	6	9
15,001 to 24,000	84	13	13
24,001 to 42,000	126	19	
Over 42,000	200		

n = Number of primary containers in sample.
c = Acceptance number.

(d) If the quality of the canned green beans falls below the standard of quality prescribed by paragraph (a) of this section, the label shall bear the general statement of substandard quality specified in § 10.7(a) of this chapter, in the manner and form therein specified; but in lieu of the words prescribed for the second line inside the rectangle the following words may be used, when the quality of canned green beans falls below the standard in one only of the following respects:

(1) "Excessive Number Very Short Pieces," if the canned green beans fail to meet the requirements of paragraph (a) (1) of this section.

(2) "Excessive Number Blemished Units", if they fail to meet the requirements of paragraph (a) (4) of this section.

(3) "Excessive Number Unstemmed Units", if they fail to meet the requirements of paragraph (a) (5) of this section.

(4) "Excessive Foreign Material", if they fail to meet the requirements of paragraph (a) (6) of this section.

3. By adding a new section as follows:

§ 51.12 Canned green beans and canned wax beans; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned green beans and canned wax beans is:

(1) The fill of the bean ingredient and packing medium, as determined by the general method for fill of containers prescribed in § 10.6(b) of this chapter, is not less than 90 percent of the total capacity of the container.

(2) The drained weight of the bean ingredient, as determined by sections 32.001 and 32.002 "Canned Products—Drained Weight—Procedure," in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Edition, 1970, p. 559,¹ for canned green beans and canned wax beans shall be not less than 55 percent of the water capacity of the container, except for beans in "whole" or "sliced lengthwise" style, for which it shall be not less than 50 percent of the water capacity of the container.

(b) (1) A container that falls below the requirement for minimum fill prescribed in paragraph (a) (1) of this section is considered a "defective." The food will be deemed to fall below the standard of fill when the number of defectives exceeds the acceptance number (c) in the sampling plan prescribed in § 51.11(c).

(2) Canned green and wax beans will be deemed to fall below the standard of fill when the average drained weight of all the containers examined is less than the minimum required in paragraph (a) (2) of this section.

(c) If canned green beans or canned wax beans fall below the standard of fill of container prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form therein specified. If canned green beans or canned wax beans fall below the standard of fill of container in respect to drained weight, the words "Low drained weight" shall follow the general statement of substandard fill on the label.

Interested persons may, on or before April 29, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably

in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: January 16, 1974.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.74-2139 Filed 1-25-74;8:45 am]

[21 CFR Part 102]

COMMON OR USUAL NAMES FOR
NONSTANDARDIZED FOODS

Size and Style of Type for Listing of Ingredients; Extension of Time for Filing Comments

In the FEDERAL REGISTER of December 10, 1973 (38 FR 33984), the Commissioner of Food and Drugs proposed to amend § 102.1 *General principles* (21 CFR 102.1) by adding a new paragraph (e) prescribing requirements for the size and style of type of the words appearing in the common or usual name of a non-standardized food. A period of 30 days, ending January 9, 1974, was provided for filing comments on the proposal.

The Commissioner has received requests for an extension of the comment period on the ground (among others) that the period for comment provided encompassed an extended holiday season rendering the filing of a meaningful response by January 9, 1974 virtually impossible.

Good reason therefor appearing, the time for filing comments in this matter is extended to February 8, 1974.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403, 701(a), 52 Stat. 1041, as amended, 1047-1048, as amended, 1055; 21 U.S.C. 321(n), 343, 371(a)), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: January 23, 1974.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.74-2255 Filed 1-24-74;1:45 pm]

DEPARTMENT OF
TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 215]

[Dockets RSFC-1, 2 and 3; Notice 3]

RAILROAD FREIGHT CAR SAFETY
STANDARDS

Notice of Proposed Rulemaking

The Federal Railroad Administration (FRA) is considering several amendments to Part 215, Railroad Freight Car Safety Standards. These standards were issued by FRA on November 12, 1973 (38 FR 32224) and became effective on January 1, 1974.

Several aspects of these standards appear to be in need of clarification, par-

ticularly in regard to their application and the dates various sections of the standards become effective. Some present problems that apparently were not envisioned or intended by FRA. On December 19, 1973, the Association of American Railroads (AAR) filed a petition for clarification and amendment of these standards.

After carefully reviewing this petition, FRA believes that a number of amendments of the Freight Car Safety Standards appear to be warranted. Some of the amendments proposed in this notice are procedural in nature or for purposes of clarification only and would not, therefore, ordinarily require notice and public participation. Others, however, involve substantive changes. Accordingly, all of the proposals are presented for comment in this notice. The amendments proposed by this notice stem from the AAR petition, comments from the industry, and from FRA's own considerations. In view of the proposed April 1, 1974 filing date for railroads instructions for safety inspection under § 215.23(b), amendments issued pursuant to this notice may become effective less than 30 days after the date they are adopted as a final rule.

Interested persons are invited to participate further in this proceeding by submitting written data, views, or comments. Communication should identify the docket number and notice number, and should be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before February 18, 1974, will be considered by the Federal Railroad Administrator before final action is taken on the proposed amendments. Comments received after that date will be considered so far as practicable. The proposals contained in this notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Major revisions in the standards are proposed in the following sections.

Section 215.3 Paragraph (a) of this section now provides that these standards apply to railroad freight cars operating on standard gage track which is part of the general railroad system of transportation. Therefore, railroad freight cars bearing Canadian and Mexican reporting marks operate from time to time on railroads of the United States for limited purposes are subject to these standards while they are in this country. However, FRA recognizes that the requirements of these standards could adversely affect the free movement of these cars into the United States and between points in Canada which traverse the U.S. boundary. Therefore, FRA proposes to exclude from these requirements cars that are not a part of the United States freight car fleet. FRA is continuing to consider this matter and will

initiate discussions with appropriate Canadian and Mexican authorities with respect to applying these standards to Canadian and Mexican cars while they are operating within the United States.

Paragraph (b) of this section now provides that Part 215 does not apply to railroad freight cars which operate only on track inside an installation which is not part of the general railroad system of transportation. FRA proposes to exclude from these standards railroad freight cars that operate primarily inside a non-railroad installation but do on occasion operate for short distance on track that is part of the general railroad system of transportation. Accordingly, FRA proposes to amend paragraph (b) to provide that this part does not apply to railroad freight cars in dedicated service between installations which operate over not more than 15 miles of track that is part of the general railroad system of transportation.

Section 215.5. This section would be amended by adding definitions for the terms "cracked" and "cushioning device" and clarifying the language of paragraph (d).

Section 215.9. FRA proposes to amend this section to provide that a defective car may be moved for repair only after the person in charge, rather than the entire crew, is notified in writing of the presence of the defective car and of the maximum speed and other restrictions under which it must be operated. However, the person in charge would then be required to convey this information to all other crew members. The proposed amendment would also authorize use of a copy of railroad's "bad order tag or card" to provide written notification to the person in charge.

Section 215.11. Instead of the present requirement in paragraph (b) that "-X" be stenciled on restricted cars immediately following the car number, it is proposed that "R" be stenciled immediately below the car number. The present requirement of paragraph (b) that all restricted cars be stenciled after March 31, 1974 would also be changed to require restricted cars to be stenciled in the prescribed format after December 31, 1974 if they have received their first periodic inspection under § 215.25 or if a railroad knows or has notice that the cars are restricted. After December 31, 1976, every restricted car must be stenciled. FRA believes that this change is necessary to provide sufficient time for restricted cars to be identified and properly stenciled. In addition, a proposed new paragraph (d) would allow the information prescribed in paragraphs (b) and (c) to be stenciled in a non-tabular form under the car numbers to the extent that it is impracticable to do so in a tabular form.

Section 215.23. Paragraph (a) would be amended by revoking the provision which allows a car, placed in a train at a location where a qualified person designated under § 215.15 is not on duty to inspect the car, to be inspected instead by available personnel at that point and

proceed to next point en route where a safety inspection may be performed by a designated qualified person. This subject will be dealt with by the instructions for safety inspections submitted by railroads under paragraph (b) of this section and approved or amended by FRA under §§ 215.29 and 215.31. Because of the proposed change in paragraph (a), the February 1, 1974 due date for filing of instructions for safety inspections prescribed in paragraph (b) would be changed to April 1, 1974 and the date after which these inspections must be made contained in paragraph (a) would be changed to July 31, 1974.

Section 215.43. The present description in paragraphs (f), (g) and (h) of defective wheels due to a chip in the rim would be simplified and consolidated into a new paragraph (f). In addition, the definition of a defective wheel due to overheating would be revised to conform to the recently adopted industry standard which is more specific than the definition originally promulgated.

Section 215.45. The minimum distance between the inside faces of wheel rims would be reduced from 53 to 52¹⁵/₁₆ inches.

Section 215.89. This section would be amended by revoking the provision that provides that a plain bearing is defective due to overheating if it has a journal temperature of 400° F or more. FRA believes that this provision is impractical to apply under normal operating conditions and that the other evidences of overheating sufficiently identify this condition.

Section 215.93. It is proposed to amend this section by changing the overheating temperature from 200° to 250° F and amending condition (4) to specify that a roller bearing is defective if a truck side frame key, pedestal bolt or stop block is missing (unless by design). Condition (4) now provides that the bearing is defective if a truck side frame key is missing.

Section 215.97. It is proposed that "stabilized journals" be substituted for "journal stops".

Section 215.99. It is proposed to add "or less" after "11 inches" in the table.

Section 215.153. This section would be amended to specify that a car body is defective if it has a center pin missing.

Section 215.193. It is proposed to change condition (c) by adding "(except by design)" after "missing".

Section 215.195. This section would be revoked in its entirety. This section requires each cushioning device used on a railroad freight car to have affixed to it instructions for immobilizing the device. This requirement is not necessary because this procedure would be performed by qualified personnel prior to movement for repair under § 215.9.

Section 215.197. It is proposed to amend this section by revoking paragraph (b) which provides that a defective cushioning device must be immobilized before a freight car is moved for repair. This paragraph is not necessary because § 215.9 adequately covers this condition.

Section 215.223. Amendment of this section is proposed to change the date when certain cars are prohibited from being used. Operation of a freight car equipped with a component listed in Section I of Appendix B would be prohibited after December 31, 1974 if the car has received its first periodic inspection under § 215.25, or a railroad knows or has notice that the car is so equipped. In any event, after December 31, 1976, a car so equipped could no longer be operated. This change is necessary to provide sufficient time for cars with prohibited components to be identified. In addition, this section would be amended to make it clear that until one of these events occurs, this section applies only to cars required to be placarded under the Hazardous Materials Regulations.

Section 215.225. Amendments corresponding to those proposed in § 215.223 are also proposed in this section for restricted cars.

Appendix A. The captions for gage Nos. 1-6 and 8 would be amended to specify "rust proof finish".

Certain additional amendments that are not substantive in nature are also proposed in the text set forth below.

Several amendments suggested in the AAR petition are not proposed in this notice. The suggestions that the term "rebuilt" be defined as meaning the same as "built" or "original date of construction", and that the "rebuilt" date be used in measuring the age of a car under § 215.225(a), were rejected. Also rejected was the suggestion that § 215.55 which provides that a plain bearing journal is defective if it has any of the listed conditions, be amended to make the journal defective only if the condition made the journal "unsafe to operate".

This notice is issued under the authority of section 202, 84 Stat. 971, 45 U.S.C. 431; and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

In consideration of the foregoing, it is proposed to amend Part 215 of Title 49 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C. on January 22, 1974.

JOHN W. INGRAM,
Administrator.

1. It is proposed to amend paragraph (a) and (b) of § 215.3 to read as follows:

§ 215.3 Application.

(a) Except as provided in paragraphs (b) and (c), this part applies to a railroad freight car operating on standard gage track which is part of the general railroad system of transportation.

(b) This part does not apply to a car owned by a Canadian or Mexican Railroad with Canadian or Mexican reporting mark and car number.

(c) This part does not apply to a railroad freight car operating in dedicated service between installations over not more than 15 miles of track that is part of the general railroad system of transportation.

2. In § 215.5, it is proposed to add a new paragraph (b), amend and redesignate existing paragraph (b) as paragraph (c), amend and redesignate existing paragraph (c) as paragraph (d), and add a new paragraph (e) as follows:

§ 215.5 Definitions.

(b) "Cracked" means broken or fractured without complete separation into parts.

(c) "Railroad freight car" means a car designed to carry freight or railroad personnel by rail, and includes a—

- (1) Boxcar;
- (2) Refrigerator car;
- (3) Ventilator car;
- (4) Stock car;
- (5) Gondola car;
- (6) Hopper car;
- (7) Flatcar;
- (8) Special car;
- (9) Caboose car;
- (10) Tank car; or
- (11) Yard car.

(d) "Reconditioned" means that all railroad freight car components subject to requirements of this part have been rebuilt or restored by repair or replacement to—

- (1) Their original condition; or
- (2) A functional condition which is equivalent to or better than their original condition.

(e) "Cushioning device" means a draft arrangement with more than 5 inches travel between coupler and body.

3. In § 215.9, it is proposed to amend paragraph (a) to read as follows:

§ 215.9 Movement of defective cars for repair.

(a) Except as provided in paragraph (b) of this section, a railroad freight car which has any component described as defective in this part may be moved for repair only after—

- (1) A person designated under § 215.15 determines—
 - (i) That it is safe to move the car; and
 - (ii) The maximum speed and other restrictions necessary for safely conducting the movement; and
- (2) The person in charge of the train in which the car is to be moved is notified in writing and informs all other crew members of the presence of the defective car and the maximum speed and other restrictions determined under paragraph (a)(1)(i) of this section. A copy of the railroad's "bad order tag or card" containing this information may be used to provide written notification.

4. In § 215.11, it is proposed to amend paragraphs (b) and (c), add a new paragraph (d) and redesignate existing paragraph (d) as paragraph (e) as follows:

§ 215.11 Stenciling.

(b) After December 31, 1974, each railroad freight car described in § 215.225(a) which has received its initial periodic inspection under § 215.25 or which the railroad knows, or has notice that it is described under § 215.225, and after De-

ember 31, 1976, every car described in § 215.225(a), must be stenciled in clearly legible letters on each side as follows:

(1) Immediately below the car number, in the same color as the reporting mark, the symbol "R" which must be the same size as the reporting mark.

(2) Following the symbol "R", in letters at least 1 inch high, as many of the following terms as are needed to completely indicate the basis for the restricted operation of the car under § 215.225:

- (i) Age.
- (ii) Coupler.
- (iii) Draft.
- (iv) Bearings.
- (v) Truck.
- (vi) Underframe.
- (vii) Wheels.
- (viii) Yoke.

(c) Except as provided in paragraph (d) of this section, the following must be stenciled in a tabular form in clearly legible letters and numbers at least 1 inch high on each side of each railroad freight car body when the car receives its initial inspection under § 215.25:

(1) The symbol "BLT" followed by the month and year the car was originally constructed.

(2) If the car has been reconditioned, the symbol "RCD" followed by—

(i) The month and year it was last reconditioned;

(ii) The reporting mark of the railroad that initially operated the car after it was last reconditioned; and

(iii) Letters or abbreviated words which identify the entity that last reconditioned the car.

(3) If the car is equipped with plain bearing boxes, the symbol "RPKD" followed by a hyphen and the number of months (24 or 30) within which the boxes must be lubricated under § 215.97.

(4) If the car is equipped with roller bearings which by design must be periodically lubricated, the symbol "LUB" followed by a hyphen and the number of months (12, 18, or 36) within which the bearings must be lubricated under § 215.99.

(5) Except for a car originally constructed or reconditioned within the period required by § 215.97 or § 215.99 for lubrication of its journal bearings, following the marks stenciled in accordance with paragraphs (c) (3) or (4) of this section:

(i) The month and year all journal bearings were last lubricated as required by § 215.97 or § 215.99;

(ii) The reporting mark of the railroad that initially operated the car after that lubrication; and

(iii) Letters or abbreviated words which identify the entity that performed the lubrication.

(6) In the case of a "high utilization" car for which a railroad maintains mileage records under § 215.25(a), the symbol "HU" followed by—

(i) The reporting mark of that railroad; and

(ii) Letters or abbreviated words which identify where the records are located.

(7) After December 31, 1976, except

for a car originally constructed or reconditioned within the period required by § 215.25 for periodic inspection, the symbol "INSP" followed by—

(i) The month and year the car was last inspected as prescribed by § 215.27;

(ii) The reporting mark of the railroad that initially operated the car after that inspection; and

(iii) Letters or abbreviated words which identify the entity that performed the inspection. Appendix C to this part contains examples of stenciling required by this paragraph.

(d) To the extent that it is impracticable to stencil in a tabular form information described in paragraphs (b) and (c), this information may be stenciled in another form near the car numbers.

(e) Whenever any portion of the information which must be stenciled on a railroad freight car under paragraphs (c) (1)-(5) and (7) of this section is missing, incorrect, or illegible, the car must be inspected or lubricated as follows:

(1) With respect to the information under paragraphs (c) (1) and (2) of this section, the car must be—

(i) After December 31, 1976, inspected as prescribed by § 215.27 unless stenciling under paragraph (c) (7) of this section indicates that the car otherwise complies with the inspection requirements of § 215.25; and

(ii) Lubricated as prescribed by § 215.97 or § 215.99 unless stenciling under paragraphs (c) (3)-(5) of this section indicates that the car otherwise complies with the lubrication requirements of § 215.97 or § 215.99.

(2) With respect to the information under paragraph (c) (3)-(5) of this section, the car must be lubricated as prescribed by § 215.97 or § 215.99.

(3) With respect to the information under paragraph (c) (7) of this section, the car must be inspected as prescribed by § 215.27.

5. In § 215.15 it is proposed to amend paragraph (a) to read as follows:

§ 215.15 Designation of qualified persons.

(a) Each railroad that operates railroad freight cars to which this part applies shall designate persons qualified to inspect railroad freight cars for defects prescribed by this part. Each person designated must have demonstrated to the railroad his knowledge and ability to inspect railroad freight cars for compliance with the applicable requirements of this part.

6. In § 215.17, it is proposed to amend paragraph (c) as follows:

§ 215.17 Waivers.

(c) If the Administrator finds that a waiver of compliance is in the public interest and is consistent with railroad safety, he grants the waiver within 90 days subject to any conditions he deems necessary. Notice of each waiver granted, including a statement of the reasons

therefor, is published in the FEDERAL REGISTER.

7. In § 215.23, it is proposed to amend paragraphs (a) and (b) to read as follows:

§ 215.23 Safety inspection required.

(a) After July 31, 1974, each railroad freight car in a train must be given a safety inspection, in accordance with instructions approved by the Federal Railroad Administrator, by a qualified person designated under § 215.15 at the point where the car is placed in the train.

(b) Before April 1, 1974, each railroad that is in operation on January 1, 1974, and operates railroad freight cars to which this part applies shall submit to the Federal Railroad Administrator for approval under § 215.29 three copies of its instructions for safety inspections of railroad freight cars required by this section. Each railroad that commences operations after January 1, 1974, shall submit its instructions to the Administrator for approval at least 90 days before the date it commences operations. Instructions submitted to the Administrator for approval must include procedures to be followed by qualified persons to assure compliance with applicable requirements of this part.

8. In § 215.31, it is proposed to amend paragraph (b):

§ 215.31 Amendment procedures.

(b) In the case of an amendment proposed under paragraph (a) (2) of this section, the Administrator notifies the railroad in writing of the proposed amendment, fixing a reasonable period (but not less than 30 days) within which it may submit written information, views, and arguments on the amendment. After considering all relevant material the Administrator notifies the railroad of any amendment adopted, or rescinds the notice. The amendment becomes effective not less than 30 days after the railroad receives notice of its adoption, unless it petitions the Administrator to reconsider the amendment, in which case its effective date may be stayed by the Administrator. If the Administrator finds that there is an emergency requiring immediate action with respect to safety in rail transportation that makes the procedure in this paragraph impracticable or contrary to the public interest, he may issue an amendment effective on the date the railroad receives notice of it. In such a case, the Administrator incorporates the findings and a brief statement of the reasons for his action in the notice of amendment.

9. In § 215.43, it is proposed to amend paragraph (f), revoke paragraphs (g) and (h) and redesignate existing paragraphs (i)-(q) as paragraphs (g)-(o) as follows:

§ 215.43 Defective wheels.

(f) A chip in the flange that is more than 1½ inches in length and one-half inch in width.

PROPOSED RULES

(g) Contiguous (adjoining) pieces of metal shelled out of the circumference of the tread.

(h) A slid-flat spot more than 2½ inches in length or two adjoining flat spots each more than 2 inches in length.

(i) A hole through the wheel plate not intended by design.

(j) A circumferential groove in the tread more than one-eighth inch in depth.

(k) A scrape, dent, or gouge in the wheel plate surface more than one-eighth inch deep that causes an abrupt change in the finish of the plate surface.

(l) A loose wheel, as evidenced by movement on the wheel seat, or oil seepage on the back hub or plate from inside the wheel fit.

(m) Any welding on the wheel.

(n) A wheel which has been overheated as evidenced by a reddish brown discoloration from heat on front and back face of rim and plate extending into the plate one-half of the distance from the tread surface to the axle with decreasing intensity.

(o) Painted so as to conceal defects.

10. It is proposed to amend § 215.45 to read as follows:

§ 215.45 Defective wheel sets.

A wheel set is defective if the wheels are out of gage so that the distance between the inside faces of the wheel rims is less than 52½/16 inches or more than 53¾ inches.

11. It is proposed to amend the text of § 215.89 to read as follows:

§ 215.89 Defective plain bearings.

A plain bearing is defective if it is not located in its design position or has any of the following conditions:

(a) A break, or crack.

(b) Overheating as evidenced by—

(1) Melted babbitt;

(2) Smoke from hot oil; or

(3) Journal surface damaged.

(c) Wear at either end which reduces its length more than one-fourth inch.

(Dimension A in Figure 6.)

(d) Combined wear that reduces its length more than three-eighths inch.

(Dimension A in Figure 6.)

(e) A lug worn more than one-eighth inch. (Dimension B in Figure 6.)

(f) Combined wear on both sides of the lug extension more than one-fourth inch. (Dimension C in Figure 6.)

(g) A loose lining or section of lining broken out.

(h) Lining worn through to brass more than three-eighths inch above the lower edge of the brass sidewall. (Dimension D in Figure 6.)

12. It is proposed to amend paragraph (b) of § 215.93 to read as follows:

§ 215.93 Defective roller bearings.

(b) A roller bearing is defective if it has any of the following conditions:

(1) Overheating in excess of 250° F.

(2) A loose or missing cap screw.

(3) A broken, missing (unless by design), or improperly applied cap screw lock.

(4) A missing (unless by design) truck side frame key, pedestal bolt or stop block.

(5) A loose or nonfunctioning seal.

13. It is proposed to amend paragraph (a) of § 215.97 to read as follows:

§ 215.97 Plain bearing boxes.

(a) A railroad may not operate a railroad freight car which is equipped with plain bearing boxes unless within the preceding 24 months, or in the case of a car whose plain bearing boxes are

equipped with rear seals, box lid seals, and stabilized journals, within the preceding 30 months—

(1) The plain bearing boxes were repacked as prescribed by paragraph (b) of this section; or

(2) The car was reconditioned or originally constructed.

14. It is proposed to amend the chart in paragraph (a) of § 215.99 as follows:

§ 215.99 Roller bearings.

(a) * * *

Description of bearing	Size of bearing	Amount of lubricant required	Lubricate bearings within the following number of months before car is operated
Oil lubricated	All	Fill to maximum level	12
Grease lubricated; end caps do not rotate	All	16 oz.	18
Grease lubricated end caps rotate	12 in.	12 oz.	36
	11 in.—or less	8 oz.	36

15. It is proposed to amend paragraph (c) of § 215.123 to read as follows:

§ 215.123 Defective car trucks.

(c) With respect to the side bearings—

(1) One is broken or missing;

(2) The bearings at one end of the car on both sides are in contact with the body bolster, except by design;

(3) The bearings at one end of the car have a total clearance from the body bolster of more than three-fourths inch; or

(4) At diagonally opposite sides of the car, the bearings have a total clearance from the body bolsters of more than three-fourths inch.

16. In § 215.153, it is proposed to add a new paragraph (h) which reads as follows:

(h) Center pin missing.

§ 215.153 Defective car bodies; loaded or empty.

(h) Center pin missing.

17. It is proposed to amend § 215.193 to read as follows:

§ 215.193 Defective draft arrangement.

A draft arrangement is defective if it has any of the following conditions:

(a) A break in the yoke.

(b) A yoke strap worn more than 25 percent of its cross sectional area.

(c) A broken or missing (except by design) follower plate, draft lugs or fasteners, draft gear, draft key, or draft key retainer.

(d) A draft key worn more than 25 percent of its cross sectional area.

18. It is proposed to delete § 215.195 in its entirety.

19. It is proposed to revise § 215.197 to read as follows:

§ 215.197 Defective cushioning devices.

A cushioning device is defective if it is broken, inoperative, or missing a part.

20. It is proposed to amend § 215.223 to read as follows:

§ 215.223 Prohibited cars.

A railroad may not operate a railroad freight car equipped with any design or component listed in Section I of Appendix B to this part after—

(a) December 31, 1973 to transport commodities subject to the hazardous materials regulations in Parts 170–189 of this title and requiring placards under Subpart C of Part 174 of this title.

(b) December 31, 1974, if the car has received its initial periodic inspection under § 215.25 or a railroad knows or has notice, that the car is equipped with the design or component.

(c) December 31, 1976.

21. It is proposed to amend paragraph (b) of § 215.225 to read as follows:

§ 215.225 Restricted cars.

(b) Subject to the requirements of paragraph (d), a railroad may operate railroad freight cars described in paragraph (a) only under conditions approved by the Federal Railroad Administrator, after—

(i) December 31, 1974, if the car has received its initial periodic inspection under § 215.25 or the railroad knows or has notice that the car is equipped with the design or component.

(ii) December 31, 1976.

(c) Petitions for approval must be submitted to the Administrator in triplicate at least 90 days before the date the approval is requested to become effective. Each petition for approval must state:

(1) The name and principal business address of the petitioning railroad;

(2) The name and address of the entity that controls the operation and maintenance of the cars involved;

(3) The number, type, capacity, reporting mark and car numbers of the cars, their age if more than 50 years old measured from date of original construction, and any design or type com-

ponent which causes them to be restricted;

(4) The maximum load the cars would carry;

(5) The maximum speed at which the cars would be operated;

(6) The territorial limits in which the cars would be operated; and

(7) If the cars would be interchanged with other railroads, the names of those railroads. Within 45 days after receipt of a petition for approval filed under paragraph (b) of this section, the Administrator notifies the railroad of his decision. The railroad may petition the

Administrator to reconsider his decision. A petition for reconsideration must be filed within 30 days after the railroad receives notice of the decision.

(d) A railroad may not use a car described in paragraph (a) of this section to transport commodities covered by the Hazardous Materials Regulations in Parts 170-189 of this title, which is required to be placarded under Subpart C of Part 174 of this title.

22. It is proposed to amend Appendix A to Part 215 by changing the captions for Gage Nos. 1-6, and 8 to read as follows:

- Gage No. 1—Wheel Defect Gage
(A.A.R. Gage No. 34401)
Material: 3/32" Steel Plate-Hardened; Rust Proof Finish
- Gage No. 2—Simplified Steel Wheel Gage
(A.A.R. Gage-Simplified Wheel)
Material: 3/32" Steel Plate-Hardened; Rust Proof Finish
- Gage No. 3—Guard Arm and Contour Gage (Type E Coupler)
(A.A.R. Gage No. 25623)
Material: 1/8" Steel Plate-Hardened; Rust Proof Finish
- Gage No. 4—Guard Arm and Contour Gage (Type F Coupler)
(A.A.R. Gage No. 36527-2)
Material: 3/16" Steel Plate-Hardened; Rust Proof Finish
- Gage No. 5—Knuckle Wear Gage (Type E Coupler)
(A.A.R. Gage No. 44057)
Material: 3/16" Steel Plate-Hardened; Rust Proof Finish
- Gage No. 6—Knuckle Wear and Stretch Gage (Type F Coupler)
(A.A.R. Gage No. 44250-3)
Material: 3/16" Steel Plate-Hardened; Rust Proof Finish
- Gage No. 8—Adapter Wear Gage
(A.A.R. Alternate Standard)
Material: Steel Plate-Hardened; Rust Proof Finish.
Tolerance: +1/64" unless otherwise specified.
Break Sharp Corners.

22. It is proposed to amend example 1 of Appendix C to Part 215 to read as follows:

APPENDIX C—STENCILING EXAMPLES

This appendix contains examples of stenciling required by § 215.11(c).

EXAMPLE 1. In September 1980, a railroad operates a railroad freight car that was originally constructed in August 1958. It is a high utilization car, as defined by § 215.25 (b), for which the Chessie System has rec-

ords at its office in Baltimore, Maryland to show that the car traveled less than 25,000 miles in the preceding 12 months. The car has been reconditioned twice, the last time in July 1973, by the Best Forge and Foundry before it was released to the Penn Central. The car is equipped with plain bearing boxes with rear seals, box lid seals, and stabilized journals. The most recent lubrication under § 215.97 was performed by the Southern Pacific at its facility in Sacramento, California in June 1979.

§ 215.11(c), clause--	Stenciling		
(1)----- BLT	8-88		
(2)----- RCD	7-73	PC	BFF
(3)-(5)----- RPKD-30	6-79	SP	SAC
(6)----- HU	C&O/B&O	BALTO	
(7)----- (1)	(1)	(1)	(1)

¹ No entry required under clause (7) because under § 215.25 a high utilization car for which mileage records are kept need not be inspected within 96 months after the car is reconditioned.

[FR Doc.74-2163 Filed 1-23-74; 10:32 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 1-8; Notice 16]

RETREADED PNEUMATIC TIRES

Permanent Labeling Requirements

This notice proposes to amend Motor Vehicle Safety Standard No. 117, "Retreaded pneumatic tires" (49 CFR

571.117), to require permanent labeling on the tire sidewall of the actual number of plies in the tire, and the composition of the material used in the plies of the tire. Standard No. 117 is amended elsewhere in this issue of the FEDERAL REGISTER (38 FR 3553) to require the permanent labeling of the tire's maximum load.

The United States Court of Appeals for the District of Columbia in "NTDRA v. Brinegar" (Case No. 72-1753; decided

January 8, 1974) vacated certain aspects of the permanent labeling requirements of Standard No. 117. It stated, however, that the standard should contain, in accordance with section 201 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1421), permanent labeling requirements for the actual number of plies, and the composition of the material used in the ply of the tire. The former item of information was permitted in the standard as an alternative to labeling "ply rating". The latter item was not required at all. This notice proposes to require the permanent labeling of these information items, taking into account changes in tire construction that have occurred since the enactment of the cited legislation. It also proposes new requirements for casing labeling in paragraph S5.2.3 of the standard, as the information proposed for permanent label-original casing labeling. Paragraph S5.2.4 would be deleted as this proposal would become effective after August 1, 1974.

In light of the above, it is proposed that 49 CFR 571.117 (Motor Vehicle Safety Standard No. 117) be amended as follows:

1. In § 571.117, paragraph S5.2.3 would be revised, paragraph S5.2.4 would be deleted and S3.3.2 would be revised to read:

§ 571.117 Standard No. 117; retreaded pneumatic tires.

S5.2.3 Each retreaded tire shall be manufactured with a casing that bears, permanently molded into or onto the tire sidewall, the symbol "DOT" and each of the following:

- (a) The size of the tire;
- (b) The actual number of plies in the sidewall, and the actual number of plies in the tread area, if different; and
- (c) The generic name of each cord material used in the plies (both sidewall and tread area) of the tire.

S5.2.4 [Deleted]

S6.3.2 Each retreaded tire manufactured on or after _____ shall be permanently labeled (through molding, branding, or other method that will produce a permanent label) in at least one location on the tire sidewall, in letters and numbers not less than 0.078 inches high, with the following information:

- (a) The tire's maximum load;
- (b) The actual number of plies in the sidewall, and the actual number of plies in the tread area, if different; and
- (c) The generic name of each cord material used in the plies (both sidewall and tread area) of the tire.

Interested persons are invited to submit comments on the proposal. Comments are particularly requested on methods retreaders may use to obtain the required information other than from original casing labeling. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, D.C. 20590. It is re-

requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: February 28, 1974.

Proposed effective date: 180 days from publication of the final rule.

(Secs. 103, 112, 113, 114, 119, 201; Pub. L. 89-563; 80 Stat. 718 (15 U.S.C. 1392, 1401, 1402, 1403, 1407, 1421); delegations of authority at 49 CFR 1.51.)

Issued on January 24, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc. 74-2315 Filed 1-24-74; 3:26 p.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 288]

[Economic Regs. Docket 25594]

EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Proposed Rule Making

JANUARY 22, 1974.

Notice is hereby given that the Civil Aeronautics Board proposes to amend Part 288 of the regulations with respect to certain foreign and overseas air transportation services performed for the Department of Defense (DOD). The principal features of the proposed amendment are discussed in the attached Explanatory Statement, and the text of the proposed amendment is also attached. As set out in the Explanatory Statement, the proposed amendment represents a surcharge to the current interim final rates to provide for recent increases in commercial fuel prices related to the volume of commercial fuels involved in the performance of the services procured by the Military Airlift Command (MAC). The amendment is proposed under authority of sections 204, 403 and 416 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 758 and 771, as amended; 49 U.S.C. 1324, 1373 and 1386).

Interested persons may participate in the proposed rule providing for the establishment of the amended interim final rates effective on the date of this Notice, through submission of 12 copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material in communications received on or before Febru-

ary 5, 1974, will be considered by the Board before taking final action on the proposed rule. Copies of such communication will be available for examination by interested persons in the Docket Section of the Board, Room 714 Universal Building, 1825 Connecticut Avenue, NW, Washington, D.C. upon receipt thereof.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

EXPLANATORY STATEMENT

By ER-819, adopted August 28, 1973, the Board initiated a full-scale MAC rate review for overseas and foreign air transportation performed for MAC. At the same time, we adopted a modification of MAC ratemaking procedure and amended Parts 288 and 399 establishing minimum interim final rates, pending the completion of the full-scale review.¹ The Board pointed out that within this procedure, we would continue to monitor recurring reports and data submitted in conjunction with the rate review and act expeditiously if further interim rate adjustments, on a prospective basis only, were found to be in order.²

Accordingly, the subsequent quarterly reports covering MAC operations were reviewed in the context of the currently established interim rates. The results of these reviews of past operations, on an annual basis, indicate that the current rates are not providing the participating carriers, individually and collectively, with excessive rates of return.

The rule amendments, adopted by ER-819, also included an automatic adjustment factor for changes in the price of fuel purchased from military sources. However, a similar adjustment provision was not feasible for fuel purchased from various commercial sources. Therefore, as part of the full-scale MAC rate review, commercial fuel use and cost data were requested to permit measuring the rate impact of the latest available fuel prices. Significant commercial fuel price increases were reported for the last quarter of 1973, and the carriers indicate that these prices can be expected to continue to rise substantially in the near future.

As set out in the Appendix, reflecting the latest available commercial fuel prices within the operating results reported for MAC long-range Category B services performed during the year ended September 30, 1973, produces an increase in operating expenses of \$6.4 million.³ To offset this cost impact would require an increase in the related current interim rates of 4.46 percent. Absent an immediate adjustment to the interim final rates to offset the substantial operating cost increases being generated by the already-effective rise in commercial fuel prices, these rates would be unacceptably inadequate and place an undue burden upon the carriers.

¹ Pages 10 through 13, ER-819.

² *Ibid.*, page 11.

³ Since the rule provides an automatic adjustment for price fluctuations in military-supplied fuels, the price of fuels obtained in the period from military sources was kept constant for purposes of the calculations in the Appendix.

With the rapid upward spiral which can be reasonably anticipated in commercial fuel prices, we have requested the carriers to supply us with monthly reports so that we can be apprised of developments in this specific cost area. Thus, as the cost impact reaches proportions to warrant interim rate adjustments, appropriate and immediate action can be taken.

In view of the foregoing, we propose to increase the long-range Category B MAC rates by a surcharge of 4.5 percent.⁴ To facilitate future adjustments which may be necessary for fluctuations in the price of fuels obtained from commercial suppliers, we believe that this adjustment would be best reflected as a separate "surcharge" provision.

In our recent notice to amend Part 288 with respect to Logair and Quicktrans rates for domestic air transportation services performed for DOD,⁵ the Board determined that for interim rate purposes proposed rate amendments should be made effective on the date of such notice. Accordingly, we propose that the adjustment to the minimum interim final rates, as set out above, shall become effective on the date of this notice.⁶

PROPOSED RULES

It is proposed to amend Part 288 of the Economic Regulations (14 CFR Part 288) as follows:

Amend § 288.7(a)(1) by amending the paragraph following the table so as to reflect an additional proviso, the amended paragraph to read as follows:

§ 288.7 Reasonable level of compensation.

(a) * * *
(1) * * *

Provided, however, That, effective August 28, 1973, if the price of any fuel or petroleum product purchased from DOD for such services varies from the levels specified in the attached Appendix F, the total minimum compensation for the transportation provided shall be adjusted (either upward or downward, as the case may be) by the difference in the price per gallon for such product paid by the carrier and the price specified for such product in the attached Appendix F times the number of U.S. gallons of such product purchased by the carrier from DOD for the transportation provided; and, *Provided, further,* That, effective January 22, 1974, the total minimum compensation for transportation with regular turbojet and DC-8F-61-63 aircraft, pursuant to the rates specified above in this paragraph (a)(1), shall be further increased by a surcharge of 4.5 percent.

⁴ For administrative purposes, the Board proposes to make the surcharge adjustments to the nearest 0.5 percent level indicated by the available data.

⁵ EDR-262, dated January 15, 1974.

⁶ The petition filed in Docket 26309 on January 11, 1973 requesting relief similar to that proposed herein is effectively disposed of by this notice.

PROPOSED RULES

3573

APPENDIX

MAC INTERNATIONAL CARRIERS

Minimum Rate Impact for Current Level of Commercial Fuel Costs—Based on results for the year ended September 30, 1973

	Revenue plane-miles flown, year ended Sept. 30, 1973 (thousands)	Fuel cost per revenue plane mile			Net cost increase for current commercial fuel prices (Dollars)	Computed revenues, 4 year ended Jan. 30, 1973 (Dollars)	MAC rate impact 5
		Reported year ended Jan. 30, 1973 1	Reflecting current commercial fuel prices 2	Net increase for current commercial fuel prices			
Long range—route carriers:							
Combination service:							
Northwest.....	4,712	Cents 51.54	Cents 100.24	Cents 48.60	\$2,290	\$15,671	Percent 14.61
Pan American.....	7,608	52.00	67.75	15.75	1,198	25,873	4.63
Trans World 3.....	4,447					14,470	
Total combination.....	16,767				3,488	56,019	6.23
All-cargo service:							
Airlift.....	2,428	63.43	75.02	11.59	281	9,624	2.92
Flying Tiger.....	4,408	53.20	62.82	9.62	424	19,058	3.87
Seaboard.....	3,310	59.52	93.44	33.92	1,123	13,496	8.32
Total all-cargo.....	10,146				1,828	42,178	4.33
Long-range supplementals:							
Capitol.....	2,837	58.42	78.29	19.87	564	9,861	5.72
Overseas.....	1,492	57.23	89.59	32.36	483	6,650	7.26
Saturn.....	1,231	68.12	70.03	1.91	23	4,977	.46
Trans International 3.....	2,900	40.69				11,140	
World 3.....	1,915	51.14				12,547	
Total supplementals.....	10,375				1,070	44,997	2.38
Total long range.....	37,288				6,386	143,214	4.46

1 As supplied by the carriers in conjunction with the full-scale rate review.
 2 Prices for military-supplied fuels held constant, with commercial fuel prices reflected at latest cost level provided in full-scale review data.
 3 No data available with regard to current commercial fuel prices.

4 Revenue aircraft miles as reported on Forms 243, adjusted to reflect circuitry absorption, times the appropriate rate established in ER-819.
 5 Ratio of net commercial fuel cost impact to revenues produced under current interim final rates.

[FR Doc.74-2145 Filed 1-25-74; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19879]

CERTAIN STATIONS IN ARKANSAS

FM Table of Assignments; Extension of Time

In the matter of Amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (Little Rock, Benton, Batesville, and Mountain View, Arkansas). Docket No. 19879, RM-2020, RM-2113, RM-2064, RM-2226.

1. On November 21, 1973, the Commission adopted a notice of proposed rule making in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on November 29, 1973, 38 FR 32946. The dates for filing comments and reply comments are presently January 18, and February 8, 1974, respectively.

2. On January 15, 1974, Preston Grace, Jr., by telegram, requested that the time for filing comments be extended for 10 days. Mr. Grace states the additional time is needed in order to document changes in the Little Rock boundary because of reasons of annexation.

3. We are of the view that the public interest would be served by extending the time in this proceeding. Accordingly it is ordered, That the dates for filing comments and reply comments are extended to and including January 28 and February 13, 1974, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act

of 1934, as amended, and Section 0.281 (b) (6) of the Commission's Rules.

Adopted: January 18, 1974.

Released: January 22, 1974.

FEDERAL COMMUNICATIONS COMMISSION,

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

[FR Doc.74-2212 Filed 1-25-74; 8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 106]

LEASE GUARANTEE

Notice of Proposed Rule Making

Notice is hereby given that pursuant to authority contained in section 401(c), part A, title IV of the Small Business Investment Act of 1968, 72 Stat. 694, 79 Stat. 482, 483, 484; 15 U.S.C. 587, 692, 693, 694, it is proposed to amend, as set forth below, 13 CFR Part 106 by amending §§ 106.10 and 106.11, adding a paragraph to § 106.12 and adding a new § 106.18. Prior to adoption of the amendment, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in triplicate, to the Office of the Associate Administrator for Finance and Investment, Small Business Administration, Washington, D.C. 20416, on or before February 27, 1974.

Information. The proposed addition to § 106.12 would permit SBA, as insurer to postpone the requirement that the lessor evict the defaulting tenant to obtain claim payments for defaulted rent, where such action is in the best inter-

ests of SBA and the small business tenant. The revisions to § 106.11 are to bring this section into conformance with the change to § 106.12. The new § 106.18 is to set forth the rights and obligations of any assignee of the lease guarantee insurance policy. The change to § 106.10 will permit the use of deductible periods up to 6 months where it is in the interest of the insurer.

The following changes to Part 106 are proposed:

1. Revise § 106.10(a)(2) as follows:

§ 106.10 Minimizing the risk.

(a) * * *

(2) The lessor shall accept an insurance policy providing for a deduction of from three (3) to six (6) months rent due after the date of default as the amount of loss to be borne by the lessor, as determined by the insurer.

2. Revise § 106.11(c), (d) and (h) as follows:

§ 106.11 Lessors duties to lessee and insurer.

(c) Unless such default is corrected by amicable agreement of the lessee and lessor on or before 30 days from date of notice, the lessor will take prompt action to terminate the occupancy of the lessee, to make such repairs to the property as are necessary to restore it to its original condition, ordinary wear and tear excepted, and to deliver vacant possession to the insurer unless the requirement for vacant possession is postponed pursuant to § 106.12(c): *Provided, however*, This shall not be construed to prohibit im-

provements in the premises permitted by the lease.

(d) If such default is not corrected by the lessee, the lessor shall utilize the entire period for which there are funds available in escrow for the payment of rental claims (or the deductible period) in reasonably diligent efforts to eliminate or minimize losses by rerenting the property covered by the lease to another lessee subject to the approval of the insurer for the purpose of retaining the insurance coverage unless vacant possession has been postponed pursuant to § 106.12(c).

(h) Upon filing a claim for guaranteed rent in default, the lessor will continue to make reasonably diligent effort to minimize losses by assisting the in-

surer to locate a prospective lessee. Upon such filing and the exhaustion of the escrowed fund or the expiration of the deductible period, the lessor shall deliver vacant possession to the insurer with the right to rerent the premises unless vacant possession has been postponed pursuant to § 106.12(c).

3. Add paragraph (c) to § 106.12:

§ 106.12 Insurer's rights.

(c) The insurer may pay claims for the guaranteed rent where the lessor has been notified by the insurer, in writing, to postpone dispossession of the lessee, if in the judgment of the insurer it would be in the best interest of the insurer or the lessee and consistent with SBA's statutory purpose to permit the lessee to continue to occupy the property.

4. Section 106.18 is added as follows:

§ 106.18 Rights and obligations of assignees of the lease rental guarantee insurance policy.

An assignee of a lease rental guarantee insurance policy becomes a loss payee for its interest in rental payments made by the insurer after default by the tenant through an assignment of interest endorsement to the policy. Such rental payments will be made only when the lessor, or the assignee acting as lessor, is in compliance with the provisions of the policy and § 106.11 of these regulations.

THOMAS S. KLEPPE,
Administrator.

JANUARY 16, 1974.

[FR Doc.74-2178 Filed 1-25-74;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

Customs Service

[T. D. 74-46]

FOREIGN CURRENCIES

Certification of Exchange Rates

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, Washington, D.C., January 21, 1974.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 74-40 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Denmark krone:	
January 7, 1974	\$0.1473
January 8, 1974	.1480
January 15, 1974	.1475
January 16, 1974	.1481
January 17, 1974	.1474
January 18, 1974	.1471
Ireland pound:	
January 16, 1974	2.1775
January 17, 1974	2.1800
January 18, 1974	2.1860
Italy lira:	
January 17, 1974	0.001538
Japan yen:	
January 7, 1974	0.003330
January 8, 1974	.003334
January 9, 1974	.003334
January 10, 1974	.003334
January 11, 1974	.003333
January 14, 1974	.003332
January 15, 1974	.003332
January 16, 1974	.003332
January 17, 1974	.003332
January 18, 1974	.003332
Portugal escudo:	
January 8, 1974	0.0365
Sri Lanka (Ceylon) rupee:	
January 14, 1974	0.1425
January 15, 1974	.1425
January 16, 1974	.1425
United Kingdom pound:	
January 16, 1974	2.1775
January 17, 1974	2.1800
January 18, 1974	2.1860

[SEAL] JOHN D. ROBISON,
Acting Director, Appraisal
and Collections Division.

[FR Doc.74-2218 Filed 1-25-74; 8:45 am]

[T.D. 74-45]

REIMBURSABLE SERVICES

Excess Cost of Preclearance Operations

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning February 17, 1974.

Installation	Biweekly excess cost
Montreal, Canada	9,562.00
Toronto, Canada	12,047.00
Kindley Field, Bermuda	1,303.00
Nassau, Bahama Islands	4,635.00
Vancouver, Canada	945.00
Winnipeg, Canada	490.00

[SEAL] G. R. DICKERSON,
Acting Commissioner of Customs.

[FR Doc.74-2204 Filed 1-25-74; 8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

ADVISORY COMMITTEE MEETINGS

The Department of Defense Advisory Group on Electron Devices and various working groups thereof, will meet in closed sessions as indicated below:

(a.) Working Group on Low Power Devices, 201 Varick Street, New York, New York, February 11, 1974.

(b.) Working Group on Microwave Devices, Institute for Defense Analyses, 400 Army-Navy Drive, Arlington, Virginia, February 12, 1974.

(c.) Working group on Special Devices, Institute for Defense Analyses, 400 Army-Navy Drive, Arlington, Virginia, February 13, 1974.

(d.) Advisory Group on Electron Devices, 201 Varick Street, New York, New York, February 14, 1974.

The purpose of the DoD Advisory Group on Electron Devices, and various working groups thereof, is to provide the Director of Defense Research and Engineering and the Military Departments with advice and recommendations on the conduct of economical and effective research and development programs in the field of electron devices, e.g., lasers, radar tubes, transistors, infrared sensors, etc. The group is also the vehicle for inter-service coordination of planned R&D efforts.

In accordance with Public Law 92-463, section 10, paragraph (d), it is hereby determined that the AGED meetings concern matters listed in section 552(b) of Title 5 of the United States Code, particularly subparagraph (1) thereof, and that the public interest requires such meetings to be closed insofar as the requirements of subsections (a)(1) and (a)(3) of section 10, Public Law 92-463 are concerned.

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

JANUARY 23, 1974.

[FR Doc.74-2183 Filed 1-25-74; 8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

CONTROLLED SUBSTANCES IN SCHEDULE II

1974 Aggregate Production Quota for Methamphetamine

A notice was published on November 5, 1973, proposing an amendment to the 1974 aggregate production quota for methamphetamine. (38 FR 30455) At this time the aggregate production quota for methamphetamine was proposed to be increased from 517,961 grams of the anhydrous free base for 1974 to 1,892,961 grams.

An application has been received for the 1974 production of 1,375,000 grams of levo-desoxyephedrine, an isomer of methamphetamine. This entire quantity will be utilized in the production of an over-the-counter preparation. Studies of this product have indicated that it has not been the subject of abuse and should not be confused with the dextrorotatory isomer of methamphetamine. The later isomer has been the seriously abused form of methamphetamine.

No formal comments or objections were received with regard to this proposal.

Based upon consideration of the foregoing, the Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations (see 38 FR 18380, July 10, 1973), hereby

orders that the aggregate production quota for methamphetamine for 1974 expressed in grams of anhydrous free base be amended and increased to a total of 1,892,961 grams. None of the additional amount may be used in the dextrorotatory or racemic form of methamphetamine.

All persons who submitted an application for either an individual manufacturing quota or procurement quota for 1974 will be notified by mail as to their respective 1974 quota established by the Drug Enforcement Administration.

This order is effective January 28, 1974.

Dated: January 18, 1974.

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

[FR Doc.74-2217 Filed 1-25-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 391]

CALIFORNIA

Proposed Withdrawal and Reservation of
Lands

Correction

In FR Doc. 73-26780 appearing at page 34824 in the issue for Wednesday, December 19, 1973, on page 34825 make the following changes in the land description:

1. The seventh and eighth lines, reading:

250.00 feet; thence S. 00°14'00" E.,
471.94 feet; thence S. 40°34'19" W.,

should read:

250.00 feet; thence S. 40°34'19" W.,
471.94 feet; thence S. 00°14'00" E.,

2. The last line in the description, reading "44 56', for a distance of 541.12 feet;" should be deleted.

Bonneville Power Administration FY 1975 DRAFT ENVIRONMENTAL STATEMENT GROUP

Change in Meeting Date

Notice is hereby given of a postponement of a public information meeting on Bonneville Power Administration's Fiscal Year 1975 Draft Environmental Statement.

Notification of the public meeting originally scheduled for Tuesday, February 5, 1974, at 1 p.m. appeared in the FEDERAL REGISTER on Wednesday, January 2, 1974 (39 FR 17). This meet-

ing has been rescheduled for Thursday, February 28, 1974, at 1 p.m. As previously arranged, the meeting is still to be conducted in the Garfield County Court House, Pomeroy, Washington.

Dated: January 22, 1974.

WILLIAM H. CLAGETT,
Assistant Administrator.

[FR Doc.74-2164 Filed 1-25-74;8:45 am]

Office of Oil and Gas

EMERGENCY ADVISORY COMMITTEE FOR NATURAL GAS

Notice of Meeting

The first meeting of the Demand Task Group of the Subcommittee on LP-Gas Supply and Demand of the Emergency Advisory Committee for Natural Gas shall be held on January 31, 1974, at 10 a.m. at No. 1 Resources Science Bldg., 4th and Boston, Tulsa, Oklahoma. This is an organization meeting which will review the general guidelines for the preparation of the Demand input of the study.

Dated January 24, 1974.

L. A. D'ANDREA,
Executive Secretary.

[FR Doc.74-2363 Filed 1-25-74;12:20 pm]

EMERGENCY ADVISORY COMMITTEE FOR NATURAL GAS

Notice of Meeting

The first meeting of the Supply Task Group of the Subcommittee on LP-Gas Supply and Demand of the Emergency Advisory Committee for Natural Gas shall be held on January 29, 1974, at 10 a.m. in the French Room, Fairmont Mayo Hotel, 5th & Cheyenne Ave., Tulsa, Oklahoma. This is an organizational meeting which will review the general guidelines for the preparation of the Supply input of the study.

Dated January 24, 1974.

L. A. D'ANDREA,
Executive Secretary.

[FR Doc.74-2364 Filed 1-25-74;12:20 pm]

Office of the Secretary

[Int Des 74-3]

LAKE MEAD NATIONAL RECREATION AREA, ARIZ. AND NEV.; WILDERNESS PROPOSAL

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental state-

ment for a wilderness proposal for Lake Mead National Recreation Area, Arizona and Nevada.

The statement considers establishment of 469,300 acres of wilderness within Lake Mead National Recreation Area in Clark County, Nevada, and Mohave and Coconino counties, Arizona.

Written comments on the environmental statement are invited and will be accepted on or before March 26, 1974. Comments should be addressed to the Superintendent, Lake Mead National Recreation Area.

Copies of the draft environmental statement are available from or for inspection at the following locations:

Western Regional Office, National Park Service, 450 Golden Gate Avenue, P.O. Box 38063, San Francisco, California 94102.

Los Angeles Field Office, New Federal Building, Room 2202, Los Angeles, California 90012.

Superintendent, Lake Mead NRA, 601 Nevada Highway, Boulder City, Nevada 89005.

Dated: January 22, 1974.

WILLIAM A. VOGELY,
Acting Deputy Assistant
Secretary of the Interior.

[FR Doc.74-2127 Filed 1-25-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business
Administration

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Notice of Meeting

The Computer Systems Technical Advisory Committee of the U.S. Department of Commerce will meet February 4, 1974, at 10:00 a.m. in the Aviation Room of the Sheraton-Fredericksburg Motor Inn, Fredericksburg, Virginia. The meeting will continue February 5 and 6 to the conclusion of the agenda.

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

Agenda items are as follows:

1. Comments on minutes of previous meeting.
2. Presentation of papers or comments by the public.
3. Report on the work program.
4. Review of Export Administration procedures.

5. Executive Session: Discussion of, and preparation of working papers on, the work program:

- a. Foreign availability.
- b. Performance characteristics.
- c. Safeguards.
6. Adjournment.

The Computer Systems Technical Advisory Committee was established January 3, 1973, and consists of technical experts from a representative cross-section of the industry in the United States and officials representing various agencies of the U.S. Government. The industry members are appointed by the Assistant Secretary for Domestic and International Business to serve a two-year term.

The public will be permitted to attend the discussion of agenda items 1-4, and a limited number of seats—approximately 10—will be available to the public for these agenda items. To the extent time present oral statements to the committee. Interested persons are also invited to file written statements with the committee.

With respect to agenda item (5), "Executive Session," the Assistant Secretary of Commerce for Administration, on December 20, 1973, determined, pursuant to Section 10(d) of P.L. 92-463, that this agenda item should be exempt from the provision of Section 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 USC 552(b)(1).

Further information may be obtained from Rauer H. Meyer, Director, Office of Export Administration, Room 1886C, U.S. Department of Commerce, Washington, D.C. 20230 (A/C 202 + 967-4293).

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

Dated January 24, 1974.

LEWIS W. BOWDEN,
Deputy Assistant Secretary
for East-West Trade (Acting).

[FR Doc.74-2295 Filed 1-25-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

THE SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which was established to review the policies, programs, and activities of the Department of Health, Education, and Welfare relative to women and to make recommendations to the Secretary on how to better the services of HEW's programs to meet these special needs of women, will meet Thursday and Friday, January 31st, February 1st, 1974. The Committee will meet from 9:00 a.m. to 5:00 p.m. in HEW Region III Office, Gateway Building, 3535 Market Street, Philadelphia, Pennsylvania. On Thursday, four subcommittee's will meet to discuss Title IX of the Education Amendments of 1972, National Health Insurance relating to the health needs of women, Career Ladders for Women, and Social Security. Friday, the full Committee will discuss insurance, child care, and credit in addition to discussing possible recommendations in these areas. Persons wishing to address the Committee should contact Ms. Arva Jackson, Equal Employment Opportunity Officer, HEW Region III by COB Monday, January 28, 1974. Phone: 215-597-6505. Written statements received by January 28 will be duplicated and distributed to the members. Members of the public are invited to attend the meeting.

Dated: January 14, 1974.

KAREN KEESLING,
Executive Secretary, Secretary's
Advisory Committee on the
Rights and Responsibilities of
Women.

[FR Doc.74-2184 Filed 1-25-74;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket Nos. 50-471 and 50-472]

BOSTON EDISON COMPANY, 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, Fitchburg 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 pressured 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 applicants' site on the western shore of Cape Cod Bay and south of Plymouth Bay in the Town of 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 Commission'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, Directorate
of Licensing-Regulation.

[FR Doc. 74-904 Filed 1-11-74; 8:45 am]

[Docket No. 60-460]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM

Notice of Receipt of Application for Construction Permit and Facility License and Availability of Applicant's Environmental Report

Washington Public Power Supply System (the applicant), pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, which was docketed October 18, 1973, for authorization to construct and operate a generating unit utilizing a pressurized water nuclear reactor. The application was tendered on July 16, 1973. Following a preliminary review for completeness, the application was rejected on August 20, 1973, for lack of sufficient information. The applicant submitted additional information on October 1, 1973, and the application was found to be acceptable for docketing. Docket No. 50-460 has been assigned to the application and it should be referenced in any correspondence relating to the application.

The proposed nuclear facility, designated by the applicant as the WPPSS Nuclear Project No. 1, is located on the applicant's site in Benton County, Washington, and is designed for initial opera-

tion at approximately 3619 megawatts thermal, and a net electrical output of approximately 1206 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 application 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, on or before February 19, 1974. The request should be filed in connection with Docket No. 50-460-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545, and at the Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

The applicant has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, an environmental report dated October 15, 1973. The report, which discusses environmental considerations related to the construction and operation of the proposed facility is being made available for public inspection at the aforementioned locations, and at the Office of the Governor, State Planning and Community Affairs Agency, Olympia, Washington 98504 and the Benton-Franklin Governmental Conference, 906 Jadwin Avenue, Richland, Washington 99352.

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 14th day of December, 1973.

For the Atomic Energy Commission.

A. SCHWENCER,
Chief, Light Water Reactors,
Branch 2-3, Directorate of
Licensing.

[FR Doc. 73-27005 Filed 12-20-73; 8:45 am]

CENTRAL INTELLIGENCE AGENCY

[Instruction LI 45-16]

NATIONAL ENVIRONMENTAL POLICY ACT Implementation Procedures

JANUARY 22, 1974.

The Central Intelligence Agency published proposed procedures dated 30 October 1973 for implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-190) which appeared at 38 FR 31654. Comments were received from the Environmental Protection Agency (EPA), Office of Federal Activities, suggesting that the scope of Agency actions covered in the procedures be broadened and that the definition of terms be refined to more closely parallel EPA terminology. Comments were also received from the National Newspaper Association which suggested amplification of the procedures regarding the use of public notices in newspapers as a medium to make the public aware of proposed actions and the development of environmental impact statements. All comments were given full consideration, and the proposed procedures were revised into the current instruction. Because this instruction is for intra-Agency use, it will not be codified for publication as a section of the Code of Federal Regulations. The current instruction follows:

1. *Purpose.* This Logistic Instruction prescribes procedures for implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-190), hereinafter referred to as the Act, with regard to:

a. The design, construction, alteration, operation, and use of public buildings and sites.

b. The lease, purchase, or operation of other facilities or properties.

c. The operation or use of property, equipment, vehicles, and other means of transportation.

2. *Background.* a. Section 102(2)(C) of the Act directs all Federal agencies to identify and develop methods and procedures which will ensure that environmental amenities and values are given appropriate consideration in decision-making, along with economic and technical considerations, and to prepare a detailed statement on major Federal actions that significantly affect the quality of the human environment. Executive Order 11514 of March 5, 1970, "Protection and Enhancement of Environmental Quality," implements the purpose and policy of this Act, and "Guidelines," implementing its provisions, have been issued by the Council on Environmental Quality.

b. The Act does not prohibit projects which are determined to have adverse impact but only insists that the environmental statements address each of these impacts and consider possible alternatives.

3. *Responsible officials.* a. The Director of Logistics has been designated the Responsible Official, referred to in section 102(2)(C) of the Act, who shall:

(1) Determine if proposed Agency actions require environmental impact statements.

(2) Ensure the fullest practicable provision of timely public information relative to Agency plans for actions of the type described in paragraph 1 which will impact on the human environment, and he shall obtain views of interested parties before committing final administrative action.

b. The Chief, Real Estate and Construction Division, will assist the Director of Logistics, as required, including the following:

(1) Provide technical competence for assessment studies of proposed projects and actions.

(2) Develop environmental impact statements when they are deemed necessary.

(3) Maintain a list of actions for which environmental statements are being prepared, revising the list as proposed actions are added or dropped.

(4) Report revision of the list to the Council on Environmental Quality quarterly, along with any negative determinations.

c. Independent Operating Officials shall review proposed projects with the Director of Logistics at the earliest possible stage of the proposal.

4. *Definition of terms.* In the context of this Instruction, the following terms are defined as stated below:

a. *Determination*—a formal decision by the Director of Logistics that an environmental statement is to be prepared for a proposed action. A negative determination is a decision that preparation of a statement is not merited.

b. *Environmental Assessment Study*—an organized investigation of a proposed Agency action undertaken to evaluate the significance of the impact that the action may have on the environment.

c. *Environmental Assessment*—a written analysis describing environmental impacts of Agency actions which is submitted to the Director of Logistics to assist determination decisions. Information required in the assessment shall parallel the contents required in an environmental impact statement—see paragraph 6.

d. *Environmental Impact Statement*—a report prepared by the Agency which identifies and analyzes in detail the environmental impact of an Agency action. Statements are to be prepared in draft and final forms. See paragraph 6 for detailed listing of required contents.

5. *Internal review of proposed agency actions and determinations.* a. For each proposed action or project of a type listed in paragraph 1, an assessment

shall be made as early as possible, before a final determination is made, as to the significance of and the controversy of the action along with its probable environmental impact.

b. If the preliminary assessment indicates a potential for impact in the categories of pollution (air and water), land use, and use of energy resources, further detailed studies shall be conducted to such a point that will allow a clear determination or negative determination to be made.

c. Projects or actions for which environmental impact statements would normally be made include the following:

(1) Construction of new facilities and the legislative requests for appropriation for new construction.

(2) Acquisition or disposal of real property, by lease, assignment, purchase, or otherwise, the operation of which, by the process involved, adversely affects the environment.

(3) Actions that would force displacement of people or relocation of employees naturally affecting population density. Facility relocations within the Washington metropolitan area shall be examined relative to policies of the National Capital Planning Commission.

(4) Major renovations of existing Agency facilities that alter the basic functions of space in excess of 10,000 gross square feet.

d. *Basis for Determination:*

(1) "Major Federal Actions" shall be construed to include Agency actions viewed against the cumulative impact of related actions by other agencies in the project area. If there is potential that the environment may be significantly affected, a statement is to be prepared.

(2) Agency actions likely to be controversial should be covered by an environmental statement in all cases.

6. *Content of environmental statements.* a. The following points are to be covered in draft and final environmental impact statements:

(1) Describe the proposed action and its purpose.

(2) Describe the existing environment to be affected, supplemented with maps, photos, charts, and other graphic media commensurate with the extent of the impact and with amount of information required at the particular level of decisionmaking.

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

(4) Describe the probable impact on the environment in both positive and negative aspects. Include primary and secondary consequences which cannot be avoided such as pollution, urban congestion, and threats to environmental goals.

(5) State alternatives to the proposed action and illustrate desirability relative to the recommended course of action proposed. Discuss alternative measures to compensate for losses to wildlife and alternative design approaches that sig-

nificantly affect consumption of energy or other resources.

(6) Discuss the relationship between local, short-term use and the maintenance and enhancement of long-term productivity of man's environment.

(7) Identify any irreversible and irretrievable commitments of resources should the action be implemented. This requires identification of the extent to which the action would curtail the range of beneficial use of the environment and affect historic features to be preserved.

(8) Indicate other interests and considerations of Federal policy which are thought to offset the proposed action's adverse effects.

(9) Where appropriate, discuss problems and objections raised by other Federal, state, and local agencies and by the public during the review process.

b. Each environmental statement shall be prepared in accordance with the precept of section 102(2) (A) of the Act that all agencies utilize a systematic interdisciplinary approach which will ensure the integrated use of the natural and social sciences in concert with environmental design arts in planning and decisionmaking which may have impact on man's environment. The preparation process involves circulation of statements to other Federal agencies for review and comment, dissemination of information to the public, publishing statements in the FEDERAL REGISTER and the submitting of statements to the Council on Environmental Quality as required by the Council guidelines.

c. Each draft and final statement shall be accompanied by a summary in the format stipulated in Appendix I of the Council on Environmental Quality guidelines dated 1 August 1973.

7. *Review of environmental statements by Federal, state, and local agencies and by the public.* a. To meet statutory requirements of making environmental statements available to the President, draft statements and final statements, together with the substance of all comments shall be sent to the Council on Environmental Quality as soon as they are prepared. Transmit statements to the Council in 10 copies. Simultaneously, copies being sent to other agencies for review and comment should be issued.

b. The Council will publish weekly in the FEDERAL REGISTER lists of statements received for public review. The date of publication of such lists shall be the date from which minimum periods for review and advance availability are calculated.

c. Draft environmental statements should be circulated for review to Federal and state agencies with relevant expertise. Refer to Appendices II, III, and IV of the Council on Environmental Quality guidelines dated 1 August 1973 for a listing of such agencies.

d. Draft environmental statements should be submitted in all cases to the Environmental Protection Agency for review and written comment.

e. Public review of environmental impact statements shall be accomplished by making draft and final statements available to the public free of charge or at no

more than actual cost of reproduction. The intent to prepare environmental impact statements, the holding of public hearings, and the availability of draft and final statements shall be announced by public notices in local news media serving the geographical area wherein the environmental impact is being assessed. Such public notices shall be timely and contain sufficient information about the action contemplated and its possible impact, so the public can determine whether it should seek access to the impact statement. The notices shall also inform the public how it may gain access to, or obtain, copies of the statement.

f. When requesting review and comment from entities external to the Agency, project managers shall establish an appropriate time period based on the complexity of the statement but not less than 45 days from the date of publication of the statement in the FEDERAL REGISTER. Requests for extensions of time by reviewing bodies up to 15 days should be honored.

g. Final environmental statements shall be published and circulated to all organizations and individuals that made substantive comments on the draft statement. In all cases, copies shall be sent to the Environmental Protection Agency.

8. *Administrative actions relative to reviews of environmental statements.* a. To the maximum extent possible, execution of actions and projects of the types identified in paragraphs 1 and 5c shall not start sooner than 90 days after a draft statement has been furnished the Council, circulated for comment, and made available to the public.

b. Similarly, execution of proposed actions and projects shall not start sooner than 30 days after a final statement has been made available to the Council, commenting agencies, and the public.

c. The final statement with its appended comments shall accompany the proposal through the existing review processes internal to the Agency prior to execution.

9. *Summary of Procedural steps for environmental impact review of proposed actions.* a. Preliminary Agency review process:

(1) RECD/OL review of proposed action for assessment relative to the Act and the necessity for preparation of an environmental impact statement.

(2) Director of Logistics determination to prepare an environmental impact statement.

(3) Publish the intent to prepare an environmental impact statement, or report to the Council on Environmental Quality a negative determination in case of an action that normally requires an environmental impact statement.

b. Environmental impact statement process:

(1) Prepare draft environmental impact statement.

(2) Issue draft to the Council on Environmental Quality, commenting agencies, and make available to the public. Publish availability of the draft in the FEDERAL REGISTER and by public

notices in appropriate local news media.

(3) After 45 days minimum, collect comments and revise the draft, as required.

(4) Issue final text of the environmental statement with comments on the draft to the Council on Environmental Quality and commenting parties. Publish availability of the final environmental impact statement in the FEDERAL REGISTER and by public notices in appropriate local news media.

(5) After 45 days minimum, collect the final comments and conduct an internal Agency review.

c. Final Agency review:

(1) The environmental impact statement, with relevant comments, shall accompany the proposal during review.

(2) Modify the proposal, as required, to satisfy environmental impact statement reviews.

(3) Authorize the project for execution.

FRANCIS J. VAN DAMM,
Director of Logistics.

[FR Doc. 74-2206 Filed 1-25-74; 8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 25990; Order 74-1-104]

UNITED AIR LINES, INC. AND WESTERN AIR LINES, INC.

Order Approving Agreement

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st 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 P. L. 93-28, April 30, 1973, establishing a mandatory fuel allocation program that imposes controls on "middle distillate fuels," including airline turbine fuel.¹ On the same day, the Board issued Order 73-10-50, which authorized discussions to consider adjustment of schedules to the extent necessary to deal with the developing fuel emergency. Subsequently, on December 27, 1973, the Federal Energy Office (FEO) announced that the nation's trunkline carriers (including United and Western) would be allocated 95 percent of their 1972 fuel levels.²

Pursuant to Order 73-10-50, discussions were held in Washington, D.C. on October 29, 1973 and an agreement was reached between United Air Lines, Inc. (United) and Western Air Lines, Inc. (Western) to limit frequency in the San Francisco-Seattle and San Francisco-Portland markets.

By its terms, the agreement will be implemented, subject to prior Board approval, on January 15, 1974 and will terminate on April 28, 1974. Furthermore, in the event of a cessation or curtailment

¹EPO Reg. 1, 38 F.R. 28660.

²FEO, Mandatory Petroleum Allocation Regulations, Subpart G, § 200.53(1). These fuel allocation levels will result in the carriers receiving approximately 15 percent less fuel than those 1974 planned levels of service would have required.

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.

In both markets, each carrier will delete one daily round-trip frequency. Pursuant to the agreement's provisions, the San Francisco-Seattle market will receive 13½ daily round-trip frequencies and in the San Francisco-Portland market, United and Western will operate a total of 8 daily round-trip frequencies.²⁴ In addition to the scheduled deletions, the carriers have agreed that each has the option in either market to replace two narrow-body frequencies (either round trip or one way) with one wide-body frequency at any time.

In accordance with similar agreements of this nature, the carriers have agreed that each may operate extra sections for operational reasons or unusual demand,²⁵ and larger aircraft may be substituted for smaller aircraft on an irregular and infrequent basis in order to meet unusual operational requirements.

An answer in opposition to the agreement has been filed by the Department of Justice. It contends that the necessary flight reductions to accommodate the mandatory fuel allocation program can be rationally achieved by the unilateral action of each carrier. The Department further contends that promulgation of the fuel allocation program undercuts the primary justification for permitting air carriers to enter into collective agreements to reduce capacity and divide airline markets because it requires all carriers to reduce operations to conform to the availability of fuel. Accordingly, the Department contends that the Board cannot legally approve the agreement under the standards of section 412 of the Federal Aviation Act of 1958, as amended (the Act).

The air transportation industry is being faced with a critical shortage of fuel. As a result of these shortages, the nation's trunkline carriers will only be allocated 95 percent of their 1972 fuel levels. In order to meet this allocation level, the carriers must make fuel-saving adjustments in their schedules. The Board has heretofore noted (see Orders 73-10-110, 73-11-147, 73-12-109, 74-1-41) its concern that those adjustments be made in a manner that provides the best service possible under the circumstances. Accordingly, agreements on schedule reductions necessitated by the fuel emergency, which can be analyzed and monitored by the Board to the end that available capacity is operated under schedules that provide the public with the most convenient service practicable under the circumstances, will best serve the public interest.

²⁴ Continental Air Lines and Hughes Airwest also operate in these San Francisco markets. Continental's service is through the San Francisco satellite airports at Oakland and San Jose, while Airwest operates multistop service.

²⁵ Such extra sections cannot be published, advertised or otherwise held out to the public.

Based on the foregoing considerations, the Board concludes that the agreement is not adverse to the public interest nor in violation of the Act, and that the agreement should therefore 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.⁴ This conclusion is predicated on the information received by the applicants concerning which flights will be eliminated upon the initial implementation of the agreement. In this regard, the carriers have deleted their one daily round-trip frequency at different times of the day so that each market will continue to receive a reasonable non stop schedule spread throughout the day. Additionally, it is noted with approval that this agreement satisfies the minimum guidelines established by the Board in Order 73-11-50. The average load factors for the corresponding January-April 1973 period were substantially below the 72 percent figure (48.1 percent), and as noted previously, the carriers will continue to operate at least one daily non stop round-trip frequency. 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.⁵

We have also 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.⁶

In response to the comments filed by the Department of Justice, it is the Board's view that, as we have previously discussed, 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 capacity is operated under schedules that provide the public with the most convenient service practicable under the circumstances. It is our conclusion that that is the case in respect to the agreement here before us, and that accordingly this agreement both fulfills a serious transportation need and secures important public benefits sufficient to outweigh the anticompetitive aspects of the agreement.

The carriers have requested a waiver of the Board's Procedural Regulation, PR-138, which allows 21 days for answers to this application. Since the application was filed on November 12, 1973 and the implementation date is not until January 15, 1974, we have permitted the 21 days to expire without delaying the agreement's proposed date of implement-

⁴ The carriers estimate total fuel savings of approximately 1,800,687 gallons during the term of the agreement (January 15, 1974 to April 28, 1974).

⁵ As we have noted previously, the Board will not tolerate the transfer of freed capacity to non-agreement markets. See Order 73-10-110.

⁶ In addition, see Order 73-7-147 at 14, cited in Order 73-10-110 at 7, footnote 10.

tation. The carriers' request is therefore moot and will be dismissed. We do, however, conclude 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, United and Western 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.⁷

Moreover, in accordance with our past orders and in order to effectively monitor the implementation of this agreement, jurisdiction 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 San Francisco-Seattle and San Francisco-Portland markets during the term of the agreement. (See Appendix A).⁸

Accordingly, *It is ordered, That:*

1. Agreement CAB 24074 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;⁹

2. Within 28 days after the date of 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 San Francisco-Seattle and San Francisco-Portland markets:

- Seats operated in 1972/1973 (November through April).
- Passengers carried in 1972/1973.
- Forecast passengers in 1973/1974.
- Projected seats in 1973/1974.
- Equipment type to be operated in each market.

⁷ 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.

⁸ Such reports will enable the Board to analyze such schedule change(s) to insure that freed capacity is not being unnecessarily shifted to nonagreement markets.

⁹ Copies of the schedule changes report as well as the carriers' monthly fuel reports (as required by Orders 73-10-110 and 73-11-147) shall be provided to all carriers requesting them.

1. 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 Western 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' notice to the Postmaster General;

4. The request of the applicants that the Board waive the amendment to the

Board's Procedural Regulations, PR-138, which would otherwise permit 21 days for answers to this application, be and it hereby is dismissed; and

5. Copies of this order shall be served on the Departments of Defense, Justice and Transportation; the U.S. Postal Service; the Cities of San Francisco, Portland and Seattle; ALPA; and all certificated route and 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 CAB					
Changes contained in this general schedule					
Miles scheduled weekly in this general schedule					
NONCAPACITY MARKET(S)					
Miles scheduled weekly in preceding general schedule filed with CAB					
Changes contained in this general schedule					
Miles scheduled weekly in this general schedule					

[FR Doc. 74-2146 Filed 1-25-74; 8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION SPRAY ADHESIVES Intention To Withdraw

Notice of Intention to Withdraw Certain Named Spray Adhesives as Banned Hazardous Substances under the Imminent Hazard Provisions of the Federal Hazardous Substances Act.

On August 22, 1973 (38 FR 22569), by notice published in the FEDERAL REGISTER, the Consumer Product Safety Commission declared certain named spray adhesives to be "banned hazardous substances" under provisions of the Federal Hazardous Substances Act. Subsequent notices published in the FEDERAL REGISTER declared other named spray adhesives "banned hazardous substances" (38 FR 23355, August 29, 1973) and clarified the Commission's action as to one particular brand of spray adhesive (38 FR 25216, September 12, 1973).

The actions of the Commission with respect to these products were based upon functions transferred to the Consumer Product Safety Commission by section 30 (a) of the Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1231; 15 U.S.C. 2079(a)). Specifically, the bans were imposed under section 2(g)(2) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(2)) following the commission's finding that, based upon the evidence available at that time, the distribution for household use of the named spray adhesives presented an im-

minent hazard to the public health and that it was not appropriate to permit distribution of such products pending the completion of proceedings relating to the issuance of regulations.

The Commission now gives notice of its intention to remove the "banned hazardous substances" status of the named spray adhesives effective March 1, 1974. The named spray adhesives will not be considered "banned hazardous substances" on or after that date unless additional action modifying this decision is taken by the Commission prior to March 1, 1974.

The Commission has engaged in an extensive in depth study in an attempt to determine if there is, as suggested in the preliminary data concerning this matter, a causal connection between the use of spray adhesives and chromosome damage to the user that could lead to genetic birth defects. This study has involved scientists in the academic and medical communities, in other national and state bodies concerned with such matters, in comparable agencies of foreign governments, in industry, and in the Commission itself. A summary of these efforts is available at the Commission as well as the results of these studies. The summary may be obtained by writing to the Secretary, Consumer Product Safety Commission, 1750 K Street, NW., Washington, D.C. 20207. The results of the studies may be examined at that address during normal working hours (8:30 a.m. to 5 p.m.).

Anyone who wishes to comment on this action or has any factual material bearing upon this decision not previously made available to the Commission may submit such information to the Commission at its offices at 1750 K Street, NW., Washington, D.C. 20207. The period between publication of this notice and March 1, 1974, will be used to review any comments received from sources not previously considered.

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (sec. 2(q)(2), 74 Stat. 374, as amended, 80 Stat. 1305; 15 U.S.C. 1261(q)(2)), and under the authority vested in the Consumer Product Safety Commission by the Consumer Product Safety Act (sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission hereby declares its intention to withdraw its finding that the distribution for household use of the following products presents an imminent hazard to the public health and that such products are considered "banned hazardous substances" under the Federal Hazardous Substances Act.

Therefore, unless the Consumer Product Safety Commission modifies its action before the effective date of this order, the distribution for household use of the following products shall not be considered an imminent hazard to the public health, and the following products shall not be considered "banned hazardous substances" on or after March 1, 1974:

- (1) "Foil Art Adhesive" manufactured by the Minnesota Mining and Manufacturing Company, St. Paul, Minnesota (distributed by Decorator Crafts, Inc., Oklahoma City, Oklahoma).
- (2) "Scotch Brand Spra-Ment Adhesive" manufactured by the Minnesota Mining and Manufacturing Company, St. Paul, Minnesota.
- (3) "Krylon Spray Adhesive" manufactured by Borden, Inc., Columbus, Ohio, and New York, New York.
- (4) "3M Brand Spray Adhesive 77" manufactured by the Minnesota Mining and Manufacturing Company, St. Paul, Minnesota.
- (5) "Marshall's Photo-Mount Spray Adhesive" manufactured by Borden, Inc., Columbus, Ohio and New York, New York (distributed by the John G. Marshall Manufacturing Company, Brooklyn, New York).
- (6) "Sears Multi-Purpose Spray Adhesive" manufactured by the Minnesota Mining and Manufacturing Company, St. Paul, Minnesota (Sold by Sears, Roebuck and Company, Chicago, Illinois).
- (7) "Scotch Brand Multipurpose Spray Adhesive" manufactured by the Minnesota Mining and Manufacturing Company, St. Paul, Minnesota.
- (8) "Scotch-Grip Brand Floral Adhesive 77" manufactured by the Minnesota Mining and Manufacturing Company, St. Paul, Minnesota.
- (9) "3M Brand Shipping Mate Palletizing Adhesive" manufactured by the Minnesota Mining and Manufacturing Company, St. Paul, Minnesota.
- (10) "3M Brand Spray Trim Adhesive" manufactured by the Minnesota Mining and Manufacturing Company, St. Paul, Minnesota.
- (11) "Tuff-Bond Spray-Hesive" manufactured by the Minnesota Mining and Manufacturing Company, St. Paul, Minnesota (dis-

tributed by Goodloe E. Moore, Incorporated, Danville, Illinois).

(12) "Bear Brand Spray Trim Adhesive" manufactured by the Minnesota Mining and Manufacturing Company, St. Paul, Minnesota (distributed by the Norton Company, Troy, New York).

(13) "Tri Chem Spray Mist Adhesive" manufactured by the Minnesota Mining and Manufacturing Company, St. Paul, Minnesota (distributed from October 1, 1968, through December 31, 1969, in 11-ounce cans by Tri Chem, Incorporated, Distributors, Belleville, New Jersey).

Effective date. This order shall become effective March 1, 1974.

Dated: January 23, 1974.

SADYE E. DUNN,
Secretary, Consumer Product
Safety Commission.

[FR Doc. 74-2215 Filed 1-25-74; 8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental impact statements received by the Council on Environmental Quality from January 14 through January 18, 1974.

Note: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tschirley, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E, Administration Building, Washington, D.C. 20250, (202) 447-3965.

FOREST SERVICE

Draft

Thorne Arm—Carroll Inlet, Tongass N.F., Alaska, January 17: The statement refers to a proposed five year timber harvest plan for the 62,700 acre Thorne Arm—Carroll Inlet, Revillagigedo Island, Tongass National Forest. There are 31,000 acres of commercial forest land within the area. Harvest will be through the silvicultural method of clear-cutting, on units no larger than 160 acres. The naturalness and aesthetic quality of the area will be lessened; wildlife behavior patterns will be changed. (ELR Order No. 40102.) (NTIS Order No. EIS 74 0102-D.)

Co-operative Spruce Budworm Suppression, 1974, several counties, Maine, January 14: The statement refers to the proposed aerial spraying of 430,000 acres of state and private woodlands in Aroostook, Penobscot, Piscataquis, and Washington Counties, in order to prevent or minimize further spruce budworm-caused tree mortality, and to reduce high spruce budworm populations. Most of the treatment areas have been sprayed during the past ten years. The chemical agent to be used is the insecticide mexacarbate (90 pages). (ELR Order No. 40066.) (NTIS Order No. EIS 74 0066-D.)

Jackpine Gulch Timber Sale, Beaverhead N.F., Madison County, Montana, January 14: Proposed is the sale of 7,933 MBF of timber from 19 cutting blocks covering 964 acres. The sale will require the construction of 1.3 miles of permanent road and 11.3 miles of temporary road. The sale will reduce the suitability of the roadless area for wilderness

classification (33 pages). (ELR Order No. 40070.) (NTIS Order No. EIS 74 0070-D.)

Holland Lake, Flathead N.F., Missoula County, Montana, January 16: The statement refers to a proposed revised multiple use plan for the Holland Lake Planning Unit, Swan Lake—Condon Ranger District, Flathead National Forest. The Unit contains 93,400 acres, of which 70,500 acres are National Forest lands. The eleven management units of the Planning Unit will be managed for recreation, timber, and roadless values. Adverse impact will result from road construction and timber harvesting activities (63 pages). (ELR Order No. 40096.) (NTIS Order No. EIS 74 0096-D.)

Bitterroot North Planning Unit, Bitterroot N.F., Ravalli and Missoula Counties, Montana, January 16: The statement refers to the proposed implementation of a revised multiple use plan for the Bitterroot North Planning Unit of the Bitterroot National Forest. Of 56,485 acres of National Forest lands in the Unit, 46,055 are currently roadless. Unroaded conditions will be maintained on 34,025 acres the remaining 22,460 acres will be managed under various intensities of road development. Management of the twelve subunits of Bitterroot North will be directed towards back-country, recreational, timber harvest, and wildlife habitat uses (78 pages). (ELR Order No. 40097.) (NTIS Order No. EIS 74 0097-D.)

Douglas Fir Tussock Moth Management Plan (2), Oregon, Washington, and Idaho, January 14: The statement, a revision of the draft which was received by CEQ on January 2, 1974, was prepared jointly by the Department of Agriculture and the Department of the Interior. It refers to the proposed treatment of 650,000 acres of land with the chemical DDT, in order to suppress an unusually severe outbreak of the Douglas fir tussock moth. The objective is to protect all forest resources, particularly timber, from additional damage caused by the tussock moth. Adverse impact of the action would include effects upon non-target insects, fish, big game wildlife, and domestic livestock (approximately 400 pages). (ELR Order No. 40078.) (NTIS Order No. EIS 74 0078-D.)

North Gros Ventre—Spread Creek, Bridger-Teton N.F., Teton and Fremont Counties, Wyoming, January 16: The statement refers to a proposed land use plan for the 294,000 acre North Gros Ventre—Spread Creek Planning Unit of the Bridger-Teton National Forest. The plan will allow for timber management, recreational uses, mineral development and mining, and wildlife habitat protection. Under the plan there would be road construction and development in presently roadless areas. (A total of 215,000 acres of the Unit are presently undeveloped.) Development of the land and additional consumptive uses of its resources are the major impacts of the proposal. (ELR Order No. 40099.) (NTIS Order No. EIS 74 0099-D.)

RURAL ELECTRIFICATION ADMINISTRATION

Final

Milton R. Young—Center Station, North Dakota and Minnesota, January 17: The statement refers to the construction of a 400 MW coal-fired steam electric unit as an addition to existing facilities near Center, North Dakota. Also involved is construction of 456 miles of 250 kV transmission line. Counties affected include Oliver, Burleigh, Kidder, Stutsman, Barnes, Cass, Ransom, and Richland in North Dakota, and Wilkin, Ottertail, Becker, Wadena, Hubbard, Crow Wing, Cass, Aitkin, and St. Louis in Minnesota. The boiler will discharge through a 600' stack; cooling will be by water pumped from Lake Nelson and returned at 18 degrees above ambient (3 volumes). Comments made by: EPA,

DOI, FPC, DOT, USDA, State and regional agencies, and concerned citizens. (ELR Order No. 40100.) (NTIS Order No. EIS 74 0100-F.)

SOIL CONSERVATION SERVICE

Draft

Canby Creek Watershed Program, Lincoln and Yellow Medicine Counties, Minnesota, January 16: The statement refers to a proposed watershed protection project which is intended to reduce erosion on 7,500 acres of agricultural land, and reduce flooding on 5,200 acres of flood plain land. Project measures will include conservation land treatment, two floodwater retarding reservoirs, and one multi-purpose reservoir, and 0.8 mile of stream channel work. Adverse impact will include the elimination of one mile of trout stream and 690 acres of agriculturally productive land (43 pages). (ELR Order No. 40094.) (NTIS Order No. EIS 74 0094-D.)

ATOMIC ENERGY COMMISSION

Contact: For Non-Regulatory Matters: Mr. W. Herbert Pennington, Office of Assistant General Manager, E-201, AEC, Washington, D.C. 20545, (301) 973-4241. For Regulatory Matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, P-722, AEC, Washington, D.C. 20545, (301) 973-7373.

Final

Brunswick Steam Electric Plant, Brunswick County, North Carolina, January 14: Proposed are the continuation of construction permits and the issuance of operating licenses to the Carolina Power and Light Co. for the startup and operation of the two-unit plant. Two boiling water reactors will ultimately produce a total of 5100 MWt. Electrical power generated by the plant will be 1694 MWe (1642 MWe net). Cooling will be by a once-through flow of brackish water drawn through a 3 mile canal from Cape Fear Estuary, and discharged through a 6 mile canal to the Atlantic. One hundred and seventeen acres of marshland will be lost to canal construction; between 1000 and 4000 additional acres of marshland will be modified (approximately 590 pages). Comments made by: USDA, COE, DOC, HEW, DOI, DOT, EPA, FPC, State and local agencies, and concerned citizens. (ELR Order No. 40081.) (NTIS Order No. EIS 74 0081-F.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, (202) 693-7168.

Draft Date

McClellan-Kerr Arkansas Navigation System, Arkansas, January 11: The statement refers to the continued operation and maintenance of the McClellan-Kerr Arkansas River Navigation System. Adverse impact of system operation includes the effects of hydroelectric power production methods on fish and other aquatic life, and those of temporary turbidity from dredging, (Little Rock District) (88 pages). (ELR Order No. 40098.) (NTIS Order No. EIS 74 0098-D.)

Cahokia Creek Low Dam, Illinois, January 17: The statement refers to a plan which is designed to replace an existing dam which has been damaged beyond engineering-economically justifiable repairs. Failure of the existing structure could result in severe scour along the channel, threatening several bridges and levees. The proposed is a rectangular broadcrested concrete dam with a spillway width of 188 ft. and a spillway basin.

With the exception of the temporary impacts which result from construction activities, (noise, dust, and visual pollution), the only significant adverse impact will be the loss of 20 acres of woodland, which will be revegetated (St. Louis District) (26 pages). (ELR Order No. 40050.) (NTIS Order No. EIS 74 0050-D.)

Calumet-Sag Channel, Maintenance Dredging, Illinois, January 16: The project involves the maintenance dredging of Calumet-Sag Channel and the Little Calumet River, and the disposal of polluted sediments in land disposal areas. The dredging program is intended to maintain the waterway for commercial traffic. Adverse impact includes temporary increases in water turbidity, and the potential pollution of ground water (Disposal sites may be lined with clay in order to mitigate the latter effects.) (169 pages). (ELR Order No. 40090.) (NTIS Order No. EIS 74 0090-D.)

Confined Disposal Area, Pointe Mouillee, Michigan, January 16: The project consists of the construction of a diked disposal area for polluted dredge material from the lower Detroit and Rouge Rivers, at Pointe Mouillee. The facility would also include an access channel, turning basin, mooring facility, and pumpout station. Adverse impact will include the loss of productive marsh and 700 acres of Lake Erie bottom (Detroit District) (108 pages). (ELR Order No. 40093.) (NTIS Order No. EIS 74 0093-D.)

Pascagoula River, Maintenance, Mississippi, January 16: The statement refers to the proposed maintenance of 42 miles of Pascagoula River channel. Project measures will include snagging only. There will be some temporary turbidity from the action, with adverse effects to aquatic biota (Mobile District). (ELR Order No. 40091.) (NTIS Order No. EIS 74 0091-D.)

New Jersey Intracoastal Waterway, New Jersey, January 15: The project involves the maintenance of the Mauasquan, Barnegat, Absecon, and Cold Spring inlets, and the New Jersey Intracoastal Waterway. Periodic dredging is necessary for waterways to be used by pleasure craft, commercial, and sport fishing vessels. Adverse impacts of the action will include the disruption of marine biota (Philadelphia District) (22 pages). (ELR Order No. 40087.) (NTIS Order No. EIS 74 0087-D.)

Colleton River, Dredging and Pier Construction, Beauford County, South Carolina, January 14: The statement refers to the proposed dredging of the river and the construction of a pier and six dolphins on the north shore of Colleton Neck at Victoria Bluff. The action will provide needed facilities for the construction of a metal plate assembly yard which will produce large aluminum tanks for use in the shipboard transportation of liquified natural gas. Adverse impact of the project includes: the loss of 100 acres of wooded upland and 25 acres of bog; an increase in air pollution; and possible harm to three endangered species (Charleston District). (ELR Order No. 40065.) (NTIS Order No. EIS 74 0065-D.)

Lake Texarkana, Maintenance, several counties, Texas, January 16: The statement refers to the continued operation and maintenance of federal properties at Lake Texarkana. Adverse impact of the operations includes upstream flooding and the fluctuation of lake water levels, with resultant shoreline erosion (New Orleans District). (ELR Order No. 40089.) (NTIS Order No. EIS 74 0089-D.)

Final

Atchafalaya River and Bayous, Assumption, St. Mary, and Terrebonne Counties, Louisiana, January 17: The statement refers to the proposed enlargement of existing navigation channels in the Atchafalaya River and in Bayous Chene, Boeuf, and Black to 20

feet by 400 feet. The enlargement will permit the passage of large offshore drilling rigs and related marine equipment. The dredging will convert 350 acres of land to new channel, and will result in the commitment of 7,000 acres of land to spoil disposal sites. The loss of swamp-marsh will adversely affect the production of marine life of commercial importance, and will also affect several species of mammals, birds, reptiles, and amphibians (New Orleans District). Comments made by: DOI, DOC, HEW, DOT, EPA, State agencies, and concerned citizens. (ELR Order No. 40103.) (NTIS Order No. EIS 74 0103-F.)

NAVY

Contact: Mr. Joseph A. Grimes, Jr., Special Civilian Assistant to the Secretary of the Navy, Washington, D.C. 20350, 202-697-0892.

Final

U.S. Naval Submarine Base, New London, Connecticut, January 9: The statement, a revised draft, refers to the widening of a 7.5 mile navigation channel. Deposit of 2.7 million cu. yds. of spoil will be at a Providence, Rhode Island dump site. There will be adverse impact to marine biota. (The original draft statement, filed with the Council on April 10, 1972, is ELR No. 4176, NTIS Order No. PB-208 175-D). (two volumes). Comments made by: EPA, DOI, DOC, State and local agencies and concerned citizens. (ELR Order No. 40077.) (NTIS Order No. EIS 74 0077-F.)

Trident Wharf and Turning Basin, Port Canaveral, Brevard County, Florida, January 9: The proposed project involves the construction of a new turning basin, the deepening of an existing harbor entrance channel, and the construction of a wharf and attendant facilities in order to serve Trident missile carrying submarines. Approximately 12,600,000 cu. yds. of spoil will be dredged. One hundred acres of terrestrial environment will be converted to marine environment; 156 acres of upland will be covered with spoil; 2.8 miles of Atlantic shoreline beach will be restored. There will be adverse impact upon marine biota. (55 pages). Comments made by: EPA, DOC, USDA, USCG and COE. (ELR Order No. 40071.) (NTIS Order No. EIS 74 0071-F.)

DELAWARE RIVER BASIN COMMISSION

Draft

Interstate Energy Company Pipeline, Pennsylvania, New Jersey, January 14: Proposed is the construction and operation of a buried, insulated, fuel-oil pipeline by the Interstate Energy Company. The pipeline would originate at a marine docking facility in Marcus Hook, Pennsylvania, and terminate at Pennsylvania Power and Light Company's Martins Creek Generating Station. A lateral pipeline will also be constructed, from a breakout terminal in Northampton County, Pennsylvania, across the Delaware River to a terminal at the Jersey Central Power and Light Company's Gilbert Generating Station. The project will introduce an industrial facility into a rural area. (ELR Order No. 40067.) (NTIS Order No. EIS 74 0067-D.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director of Environmental Affairs, General Services Administration, 18th and F Streets, NW., Washington, D.C. 20405, (202) 343-4161.

Final

Federal Office Building, New Bedford, Bristol County, Massachusetts, January 14: The proposed action is the construction of a new building to house the Treasury Department; Department of Health, Education and Welfare; Department of Defense and seven

other Federal agencies. The facility will consist of approximately 30,000 gross square feet on a site of approximately 50,000 square feet, located in the downtown business district within the West End Redevelopment project area. Approximately 60 on-site parking spaces will be provided (81 pages). Comments made by: DOI, DOT, USDA, State and local agencies. (ELR Order No. 40064.) (NTIS Order No. FIS 74 0064-F.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Acting Director, Office of Community and Environmental Standards, Room 7206, 451 7th Street SW., Washington, D.C. 20410. (202) 755-5980.

Final

Urban Renewal Project, Iowa City, Iowa, January 14: The statement refers to a conventional urban renewal project which is intended to eliminate present environmental deficiencies, replan and rebuild a vital section of the City, reinforce the central business district, and permit the University of Iowa to expand. Concern is focused on automobile circulation, and the boundary of a historic site. (302 pages). Comments made by: EPA, DOI, DOT, HEW, State and local agencies. (ELR Order No. 40079.) (NTIS Order No. FIS 74 0079-F.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

Draft

Disposal of Coal Mine Wastes, The statement refers to the proposed revision of 30 CFR Part 77, Sections 77.215 and 77.216 in order to provide additional requirements for the construction and maintenance of new and existing coal waste deposits and water and/or silt impounding structures. The purpose of the revision is to assure that such deposits or structures are stable, and will not fail (33 pages) (ELR Order No. 40082.) (NTIS Order No. EIS 74 0082-D.)

BUREAU OF OUTDOOR RECREATION

Final

Pine, Popple, and Pike River Acquisition, Forest, Florence, and Marinette Counties, Wisconsin, January 13: The proposal is for the acquisition by the Wisconsin Department of Natural Resources of easements or title to 7,000 acres of land along the Pine, Popple, and Pike Rivers. The purpose of the action is that of preserving the wild and scenic character of lands bordering the rivers. The gradual trend of cottage development along the rivers will be reduced (93 pages). Comments made by: EPA, FPC, HUD, DOI, USDA, State and local agencies. (ELR Order No. 40086.) (NTIS Order No. EIS 74 0086-F.)

BONNEVILLE POWER ADMINISTRATION

Draft

Bonneville Power Administration 1975 Program, Washington, Oregon, and Idaho, January 17: The statement refers to the fiscal year 1975 new additions to BPA's electric transmission system. Included will be 600 miles of transmission line; 8 new substations and related structures; the maintenance of 12,373 miles of existing transmission lines and related works; and the control of vegetation on 16,152 acres. Impacts of the program will include those from construction activities, right-of-way commitment, and herbicide use in vegetation control (two volumes). (ELR Order No. 40101.) (NTIS Order No. EIS 74 0101-D.)

NATIONAL PARK SERVICE

Draft

Lincoln Home National Historic Site, Illinois. The statement refers to a proposed master plan for the Lincoln Home National Historic Site. The plan involves the acquisition of 12.28 acres of land, restoration of the historic scene, and development of a visitor use facility. The land acquisition will include 36 improved tracts, and will result in the displacement of 148 people (35 pages). (ELR Order No. 40068.) (NTIS Order No. EIS 74 0068-D.)

Final

Bryce Canyon National Park, Park, Garfield, and Kane Counties, Utah, January 14: The statement refers to the proposed legislative designation of 16,303 acres of the Park as wilderness within the National Wilderness Preservation System (87 pages). Comments made by: USDA, DOI, DOT, and State agencies. (ELR Order No. 40076.) (NTIS Order No. EIS 74 0076-F.)

DEPARTMENT OF JUSTICE

Contact: Mr. William Cohen, Land and Natural Resources Division, Room 2129, Department of Justice, Washington, D.C. 20530, (202) 737-2730.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Draft

Southeast Tennessee Regional Correctional Facility, Marion County, Tennessee, January 16: The statement refers to the proposed construction of a Regional Correctional Facility which will accommodate 400 inmates. The Facility will be located on a 45 acre site in the Prentice Cooper State Forest, ten miles northwest of Chattanooga, and will comprise a complex of minimum and medium security quarters, day rooms, classrooms, a library, chapel, medical clinic, and related structures. Adverse impacts of the project will include the release of wastewater effluent to an adjacent creek, and the change in land use from forestry to institutional (95 pages). (ELR Order No. 40095.) (NTIS Order No. EIS 74 0095-D.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Draft

Munday Municipal Airport, Texas, January 16: Proposed is the acquisition of 75.35 acres of land and the construction of a new, lighted airport facility at Munday, Texas. Adverse impact will include increases in air and noise pollution levels. (22 pages). (ELR Order No. 40092.) (NTIS Order No. EIS 74 0092-D.)

Final

General Lyman Field, Hilo, Hawaii, January 15: Proposed is the construction of a new terminal, an access road, a parking lot, and related facilities at General Lyman Field, in order to replace existing facilities which are considered to be inadequate. Adverse impact will include the clearing of 150 acres of rain forest, and increases in air and noise pollution levels during construction. (392 pages). Comments made by: DOD, USDA, HEW, DOI, EPA, AEC, DOT, and State agencies. (ELR Order No. 40084.) (NTIS Order No. EIS 74 0084-F.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Alabama 67, Morgan County, Alabama, January 15: Proposed is the reconstruction

of 9.4 miles of Alabama 67 east of Decatur from two to four lanes. Adverse impact will include the displacement of 4 businesses and 10 families, and the temporary increases of air and noise pollution levels during construction (28 pages). (ELR Order No. 40085.) (NTIS Order No. EIS 74 0085-D.)

Howard St. Extension, Kalamazoo County, Michigan, January 14: The project involves the extension of Howard St. west and north for a distance of 0.63 mile from Kandall Avenue to M 43. The improved facility will shorten travel time and improve safety. Adverse impact includes disturbance to 9.6 acres of land and increases in air and noise pollution (94 pages). (ELR Order No. 40080.) (NTIS Order No. EIS 74 0080-D.)

Highway N 2, Lincoln Urban Arterial, Lancaster County, Nebraska, January 14: The project involves the reconstruction of 4.3 miles of highway No. 2 in south Lincoln to a four lane facility. Also included is a proposal to extend 13th Street southward for 0.4 mile to the intersection of Pioneers Boulevard and N 2. Adverse impact will include the loss of fifty trees and some wildlife habitat, and increases in air and noise levels. (ELR Order No. 40073.) (NTIS Order No. EIS 74 0073-D.)

U.S. 66, I 40, and SR 39, Quay County, New Mexico, January 14: The project entails the reconstruction of U.S. 66 and SR 39 to four lane facilities, in order to meet specifications required by the construction of I 40. The project begins east of Tucumari and extends 14.04 miles easterly to a point two miles east of San Jon. Adverse impact will include the loss of 900 acres of range and farm land, increase in air and noise pollution, and the relocation of 3 families and 2 businesses (27 pages). (ELR Order No. 40069.) (NTIS Order No. EIS 74 0069-D.)

SD 34, Lake and Moody Counties, South Dakota, January 14: The project involves the reconstruction of 10.5 miles of SD 34, from one mile south of Wentworth to the I 29 interchange. Adverse impact will include the loss of 234 acres of land to right-of-way, the displacement of two farmsteads, and increases in air and noise pollution levels during construction (16 pages). (ELR Order No. 40072.) (NTIS Order No. EIS 74 0072-D.)

Final Date 01/14

Intercity Bridge, Pasco to Kennewick, Franklin and Benton Counties, January 14: Proposed is the construction of a new four lane bridge over the Columbia River, between Pasco and Kennewick. Adverse impact will include the displacement of two businesses and two residents; a loss of native flora and wildlife habitat; and increases in noise levels due to increases in truck traffic. (two volumes). Comments made by: HUD, DOI, EPA, COE, USCG, State, and local agencies. (ELR Order No. 40083.) (NTIS Order No. EIS 74 0083-F.)

GARY L. WIDMAN,
General Counsel.

[FR Doc. 74-2169 Filed 1-25-74; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19923, 19924; File Nos. 82-M-L-93, 11-M-L-103; FCC 74-46]

MARINE TELEPHONE CO., INC. AND SHIP TO SHORE TELEPHONE CO.

Memorandum Opinion and Order

In re applications of Marine Telephone Co., Inc., Docket No. 19923, File No. 82-M-L-93; Ship to Shore Telephone Co., Docket No. 19924, File No. 11-M-L-103; for a public Coast III-B station to serve the Elizabeth City, North Carolina, area.

1. The above-captioned applications seek a license for a new Class III-B Public Coast station to be located in the vicinity of Elizabeth City, North Carolina. This class of station provides a ship-shore radio-telephone common carrier service, primarily of a local character, on VHF channels. Both Marine Telephone Company, Inc. (hereinafter called Marine) and Ship to Shore Telephone Company (hereinafter called Ship to Shore) have applied for the frequencies 156.8 MHz and 161.8 MHz.

2. The Commission's rules do not authorize the establishment of two new VHF stations of this class to serve the same geographical area. It is evident from an analysis of the applications that substantial overlap in service area would exist if both applications were granted. Therefore, the applications are mutually exclusive, and a hearing is needed to determine which of the applications should be granted.

3. Except for the issues otherwise specified herein, the applicants are qualified to become licensees of the Commission. The Safety and Special Radio Services Bureau and the Common Carrier Bureau of the Federal Communications Commission are parties to this proceeding.

4. Accordingly, it is ordered, That the above-entitled applications of Marine and Ship to Shore, are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order on the following issues:

a. To determine comparatively which applicant will provide the public with the better public coast station service based on the following considerations:

- (1) coverage area and its relation to the greatest number of potential users;
- (2) hours of operation;
- (3) qualifications of management, operators and other personnel;
- (4) interconnection with landline facilities;
- (5) proposed rates and charges;
- (6) reliability and efficiency of service; and

(7) ability to provide a radio communication service to vessels in distress.

b. To determine in light of the evidence adduced on all the foregoing issues, which application should be granted.

5. It is further ordered, That the burden of proof and the burden of proceeding with the introduction of evidence on Issue (a) is placed on each applicant insofar as the respective items pertain to each of these parties. Issue (b) is conclusory.

6. It is further ordered, That coverage areas will be computed on the basis of the technical specifications contained in Subpart R of 47 CFR Part 81.

7. It is further ordered, That to avail themselves of an opportunity to be heard, Marine and Ship to Shore, pursuant to 47 CFR 1.221(c), in person or by attorney, shall within twenty days of the mailing of this Order, file with the Commission in triplicate a written appearance stating their intention to appear on the date set for hearing and present evi-

dence on the issues specified in this Order.

Adopted: January 16, 1974.

Released: January 22, 1974.

FEDERAL COMMUNICATIONS
COMMISSION,¹

VINCENT J. MULLINS,
Secretary.

[FR Doc.74-2211 Filed 1-25-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP74-58]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Proposed Plan of Refund

JANUARY 21, 1974.

Take notice that on December 29, 1973, Columbia Gas Transmission Corporation (Columbia) tendered for filing notice of their receipt of a refund in the amount of \$3,051,896.25 from Texas Eastern Transmission Corporation (Texas Eastern) as a result of the Commission's Letter Order of August 3, 1973, which required the payment and flow through of refund amounts in Texas Eastern's Docket No. RP66-12. Such refund covers the period from January 1, 1961, through December 31, 1964.

Ordering Paragraph B of the above mentioned Letter Order directs Texas Eastern to refund such amounts in accordance with the provisions of the Commission's August 10, 1971, Order in Docket No. RP66-12. Ordering Paragraph D of such August 10, 1971, Order also directed certain of Texas Eastern's wholesale jurisdictional customers (The Manufacturers Light and Heat Company and The Ohio Fuel Gas Company) to refund within thirty days such amounts received to their customers to whom they have made related jurisdictional sales for resale.

Columbia respectfully requests that the Commission grant Columbia a waiver of said Ordering Paragraph D of the Commission's Order issued August 10, 1971, and allow Columbia to make this refund under the procedure authorized by the Commission in Order Nos. 452 and 452-A. This would permit Columbia to reflect such refund in Account 191 (Unrecovered Purchased Gas Costs Account) and would provide for the refund to be flowed through to Columbia's jurisdictional customers as a credit to Columbia's surcharge rate which will become effective March 1, 1974.

According to the Company, copies of the transmittal letter, which sets forth Columbia's proposed refund plan, have been mailed to each of Columbia's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be

¹ Chairman Burch absent.

filed on or before January 31, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Columbia's proposed plan of refunds is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-2187 Filed 1-25-74;8:45 am]

[Docket Nos. RP74-22 and RP74-23]

EL PASO NATURAL GAS CO.

Order Granting Interventions

JANUARY 22, 1974.

By our order of December 21, 1973, in the above dockets we granted El Paso's petition for rehearing and set the proceedings for hearing to commence on February 12, 1974. Notice of El Paso's filing in Docket No. RP74-22 was issued on October 5, 1973, with protests and petitions to intervene due on or before October 17, 1973. Timely petitions were filed by Southern California Gas Company, Southwest Gas Corporation, Mobil Oil Corporation, Pacific Gas and Electric Company, Navajo Tribal Utility Authority, and Citizens Utilities Company. The People of the State of California through the Public Utilities Commission of the State of California filed a Notice of Intervention. Late petitions to intervene were filed by the San Diego Gas and Electric Company, The Salt River Project Agricultural Improvement and Power District, and the Tucson Gas and Electric Company.

Notice in Docket No. RP74-23 was published on October 3, 1973, with protests and petitions to intervene due on or before October 23, 1973. Timely petitions were filed by Washington Water Power Company, Colorado Interstate Gas Company, Southwest Gas Corporation, Mobil Oil Corporation, Northwest Pipeline Corporation, Cascade Natural Gas Corporation, Sierra Pacific Power Company, Mountain Fuel Supply Company, Northwest Natural Gas Company, Washington Natural Gas Company, and the APCO Group. Notices of Intervention were filed by the Idaho Public Utilities Commission, the Public Utilities Commission of the State of Colorado, the Washington Utilities and Transportation Commission, the Public Utility Commissioner of Oregon, and the People of the State of California through the Public Utilities Commission of the State of California.

The Commission finds:

The participation of the above named petitioners in these proceedings may be in the public interest.

The Commission orders:

(A) The above-named petitioners are hereby permitted to intervene in these proceedings, subject to the Rules and Regulations of the Commission; *Provided, however*, That the participation of such intervenors shall be limited to matters affecting rights and interests

specifically set forth in the petition to intervene; and *Provided, further*, That the admission of such intervenor shall not be considered as recognition by the Commission that it might be aggrieved because of any order or orders issued by the Commission in this proceeding.

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

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-2191 Filed 1-25-74;8:45 am]

[Docket Nos. CI74-189 and RI74-37]

ELIZABETH F. DORFMAN TRUST, ET AL.

Order Consolidating Proceedings, Granting Interventions, and Fixing Date for Hearing

JANUARY 22, 1974.

On September 14, 1973, Elizabeth F. Dorfman Trust, et al. (Dorfman) filed an application pursuant to section 7(c) of the Natural Gas Act,¹ and pursuant to § 2.75² of the Commission's general policy and interpretations, the Optional Procedure for Certifying New Producer Sales of Natural Gas set forth in Order No. 455³ for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce. On September 14, 1973, Dorfman also submitted an application for special relief pursuant to § 2.76⁴ of the Commission's general policy and interpretations.⁵

In both applications, Dorfman, et al., proposes to sell natural gas from the Willow Springs Field, Grigg County, Texas (Other Southwest Area) to United Gas Pipeline Company (United). The contract for sale was dated February 16, 1972, and was amended by letter agreements dated February 16, 1972, and July 16, 1973, between the Estate of Sam Sklar, et al. and United. The Estate of Sam Sklar, et al. and Elizabeth F. Dorfman Trust, et al., is an identical legal entity currently holding small producer certificates pursuant to Order Nos. 428, 428-A, and 428-B⁶ in Docket Nos. CS72-187, CS72-406, CS72-852, CS72-768, and CS72-1075.

The amended contract terminates January 1, 1979, and provides for a price

¹ 15 U.S.C. 717, et seq. (1970).

² 18 C.F.R. 2.75.

³ "Statement Of Policy Relating To Optional Procedure For Certifying New Producer Sales of Natural Gas," Docket No. R-441, 48 F.P.C. 218 (issued August 3, 1972; appeal pending sub nom. "John E. Moss, et al. v. F.P.C.," No. 72-1887 (D.C. Cir.)).

⁴ 18 C.F.R. 2.76.

⁵ "Order Promulgating Policy With Respect To Sales Where Reduced Pressures, Need For Reconditioning, Deeper Drilling, Or Other Factors Make Further Production Uneconomical At Existing Prices," Order No. 481, Docket No. R-458, -- F.P.C. -- (issued April 12, 1973). Amended in "Order No. 481 And Granting And Denying Petitions For Rehearing," Docket No. R-458, -- F.P.C. -- (issued June 8, 1973).

⁶ See 45 FPC 454, 45 FPC 548, and 45 FPC 47, respectively.

of 50 cents per Mcf with 1 cent escalation each year.

On October 10, 1973, United Gas Pipeline Company filed, in Docket No. CI74-189, a petition to intervene.

Accompanying the filing for special relief in Docket No. RI74-37 and the petition for certification under the optional certification procedure pursuant to Commission Order No. 455 in Docket No. CI74-189 was a motion by Dorfman to consolidate the two proceedings for hearing purposes. In order to honor Dorfman's petitions and to evaluate its motion to consolidate, individual consideration of the two petitions was postponed. These proceedings were not set for hearing at an earlier date in order that Dorfman be afforded an opportunity to reply to a letter from the Staff requesting clarification and additional information. The requested data was determined to be necessary for a comprehensive evaluation of Dorfman's request for special relief in Docket No. RI 74-37. On October 17, 1973, a letter was sent requesting the needed clarifying information, and on December 3, 1973, Dorfman's response was received at the Commission.

The Commission finds:

(1) It is necessary and in the public interest that the above-docketed proceedings be consolidated for hearing and decision.

(2) It is desirable and in the public interest to allow the above-named petitioner to intervene in these proceedings.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14, 15, and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), Docket Nos. CI74-189 and RI74-37 are consolidated for purposes of hearing and disposition.

(B) A public hearing on the issues presented by the proposals of the applicants herein shall be held commencing February 20, 1974, at 10 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(D) Applicants and all intervenors supporting the applications shall file their direct testimony and evidence on or before January 25, 1974. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to these proceedings.

(E) The Commission Staff and all intervenors opposing the application shall file their direct testimony and evidence on or before February 8, 1974. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, and all other parties to these proceedings.

(F) All rebuttal testimony and evidence shall be served on or before Febru-

ary 13, 1974. All parties submitting rebuttal testimony and evidence shall serve such testimony and evidence upon the Presiding Administrative Law Judge, the Commission Staff, and all other parties to these proceedings.

(G) The above-named petitioner is permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however*, That the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene; and *provided, further*, That the admission of such interest shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(H) The Administrative Law Judge's decision shall be rendered on or before March 22, 1974.

(I) All briefs on exceptions to the Commission shall be due on or before March 29, 1974.

By the Commission. Commissioner Moody, concurring, issued a separate statement, filed as part of the original document.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-2192 Filed 1-25-74;8:45 am]

[Docket Nos. RI73-314 and RI73-315]

GRAHAM, BILL J.

Findings and Order After Statutory Hearing

JANUARY 22, 1974.

Bill J. Graham (Graham), a small producer of natural gas, filed in Docket Nos. RI73-314 and RI73-315, under Order No. 481 for special relief and for certificates of public convenience and necessity for sales of natural gas to El Paso Natural Gas Company (El Paso) from the Pecos Valley Field, Pecos County, Texas (Texas R. R. District No. 8, Permian Basin Area). Docket No. RI73-315 relates to a contract dated July 29, 1957, covering the White Lease from which gas was previously sold under a small producer rate schedule. Docket No. RI73-314 relates to the Iowa Realty Trust No. 2 from which the gas is committed under a contract dated May 11, 1956, acquired from Chevron Oil Company, a large producer under FPC Gas Rate Schedule No. 18. The proposed increase to 35 cents from 17.5 cents per Mcf amounts to a total annual increase of approximately \$20,357. Graham states that the proposed increase is necessary to obtain additional capital for the installation of equipment needed for the recovery of an additional 300 MMcf of gas from the leases. Graham submitted financial data in support of its petition.

In view of the evidence submitted, the Commission determined that the proposed increase filed for in Docket No. RI73-315 comports with Order No. 481, and that Graham should be issued a certificate of public convenience and necessity at a rate of 35 cents per Mcf.

Docket No. RI73-314, which pertains to the Iowa Realty Trust #2 Lease, was acquired from Chevron Oil Company. The gas from said lease is committed under a contract dated May 11, 1956. Graham is successor in interest to the contract. Pursuant to Paragraph (c) of § 157.40 of the Commission's regulations, this acreage is outside the blanket certificate authorization provisions of Order No. 428. Graham could collect the area rate ceiling for flowing gas of 23 cents per Mcf without filing a petition for special relief. However, the financial data filed does not show that a grant of his petition for 35 cents per Mcf would be in the public interest. Therefore, a public hearing shall be held in order to provide Graham with an opportunity to present its claims in an evidentiary proceeding pursuant to the Commission's Rules of Practice and Procedure.

The Commission finds:

(1) Bill J. Graham is engaged in the sale for resale of natural gas in interstate commerce subject to the jurisdiction of the Commission and is, therefore, a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission.

(2) Graham is granted special relief under the Commission's Order No. 481, and this Commission will accept the proposed rate of 35¢ per Mcf filed in Docket No. RI73-315 issued under its small producer certificate in Docket No. CS67-45.

(3) That the effective date of such increase shall be as prescribed in the agreement with El Paso, the pipeline purchaser, and subsequent Commission notification.

(4) It is necessary and in the public interest that the petition for special relief in Docket No. RI73-314 be set for hearing, and that a prehearing conference be held in connection with the issues presented herein.

(5) Docket No. RI73-315 is hereby terminated.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, a public hearing shall be held concerning the issues presented in Docket No. RI73-314.

(B) Within twenty (20) days of the date of this order, Graham shall file its direct testimony and evidence in support of its application. All testimony and evidence filed herein shall be served upon the Presiding Administrative Law Judge, and Commission Staff.

(C) Within ten (10) days of the date that Graham is required by this order to file its direct testimony and evidence the Staff and all intervenors shall file rebuttal testimony, if any.

(D) On March 12, 1974, a prehearing conference shall be held in accordance with § 1.18 of the rules of practice and procedure (18 CFR 1.18(c)) to resolve the questions provided for in Ordering Paragraph (A), supra, in a hearing room of the Federal Power Commission, Washington, D.C. 20426 at 10 a.m. (EDT).

(E) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (See 18 CFR 3.5 (d)), shall convene

the prehearing conference in Docket No. RI73-314.

(F) The Administrative Law Judge may in his discretion grant recesses from time to time if he deems submission of the issues upon stipulated facts to be possible. If no stipulation can be reached by the parties hereto, after reasonable time and provision has been made for the same, the Administrative Law Judge shall order that the hearing provided for in Ordering Paragraph (A), supra, commence forthwith.

(G) Petitions to intervene and notices of intervention may be filed in this proceeding within fifteen (15) days of the date of this order.

By the Commission.¹

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-2190 Filed 1-25-74; 8:45 am]

[Docket No. CI74-94]

HAMMAN, BLAKE

Order Providing for Hearing, Granting Interventions, Directing Action, Declaring Jurisdiction, and Prescribing Procedures

JANUARY 22, 1974.

On July 23, 1973, Blake Hamman (Hamman), filed a petition for disclaimer of jurisdiction or, in the alternative, for permission to abandon a sale of gas to George Mitchell & Associates, Inc. (Mitchell), which involves gas extracted from Hamman's Winford No. 1 well in Jack County, Texas. This sale was pursuant to a contract executed between the parties on August 1, 1967. On May 1, 1973, Hamman, pursuant to the terms of the contract, informed Mitchell by letter of his intention to cancel the contract. At this point Hamman apparently shut in his well, whereupon the portable compression facilities of Mitchell were moved to another location.

Timely petitions to intervene have been filed by Mitchell and Natural Gas Pipe Line Company of America (Natural). Both petitions oppose the requested abandonment and allege sufficient interest in the proceeding to warrant the granting of intervention. Mitchell claims such interest because it is the buyer in the sale sought to be abandoned.

Natural's interest rests on the fact that it is the resale buyer of the gas sold from Hamman to Mitchell from instant well.

Both petitions to intervene will be granted since participation of both parties may be in the public interest and no other party to the proceeding could adequately represent their respective interests.

The applications and petitions to intervene raise factual and legal questions which should be resolved in an evidentiary proceeding.

Finally, because Mitchell resells the gas purchased from Hamman in interstate commerce, the sale is, in our opinion, a sale for resale in interstate commerce and is thus within our jurisdiction

under section 1(b) of the Natural Gas Act. Consequently, we will order Hamman to immediately resume full deliveries of gas to Mitchell from the Winford No. 1 well pending the final determination of the proceeding. In addition, Mitchell will be directed to replace the portable compression facilities which were moved from the well.

The Commission finds:

(1) Good cause exists for setting for formal hearing the issues involved in the aforementioned pleadings and for establishing the procedures for that hearing all as hereinafter ordered.

(2) The participation of Mitchell and Natural may be in the public interest.

(3) Commission jurisdiction is present over the sale of gas from Hamman to Mitchell from the well involved in the instant proceeding.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly section 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter 1), a public hearing shall be held commencing February 26, 1974, at 10 a.m. (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE, Washington, D.C. 20426, concerning the propriety of issuing a certificate of public convenience and necessity to the applicant for the proposed abandonment of the sale requested by his application of July 23, 1973.

(B) On or before February 15, 1974, applicant shall file and serve its testimony and exhibits comprising its case-in-chief in support of its application upon all parties to this proceeding including Commission Staff.

(C) An Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose, (see Delegation of Authority, (18 CFR 3.5 (d))), shall preside at the hearings in this proceeding and shall prescribe relevant procedural matters not herein provided.

(D) The petitioners hereinabove set forth are permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petition to intervene, and: *Provided, further,* That the admission of said intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this proceeding.

(E) Hamman is hereby directed to immediately resume deliveries of gas to Mitchell from the well involved in the instant proceeding.

(F) Mitchell is hereby directed to replace any and all compression facilities necessary to take the deliveries made pursuant to Ordering Paragraph (E) above.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-2194 Filed 1-25-74; 8:45 am]

[Docket No. CS71-878 etc.]

HURLEY PETROLEUM CORP., ET AL.

Order Approving Settlement, Granting Abandonment, Issuing Certificate of Public Convenience and Necessity and Dismissing Show Cause Proceedings

JANUARY 22, 1974.

By Commission Order issued October 21, 1971, in Docket No. CS71-878, Hurley Petroleum Corporation (Hurley) was granted a small producer certificate of public convenience and necessity pursuant to Section 7 of the Natural Gas Act under which it sold natural gas to Car-Tex Producing Company (Car-Tex)¹ from the Carthage Field, Panola County, Texas, at a contract price of 5.6580 cents per Mcf.² Car-Tex gathered, transported, compressed and resold Hurley's gas to Arkansas Louisiana Gas Company (Arkla) at a contract price of 12.6323 cents per Mcf under certificate authorization issued in Docket No. CI61-1379.

On December 13, 1972, Hurley filed in Docket No. CI73-431 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the sale of gas to Car-Tex from the Carthage Field and on February 28, 1973, Car-Tex filed in Docket No. CI73-578 an application pursuant to section 7(b) of said Act for permission and approval to abandon its sale of the Hurley gas to Arkla. On February 26, 1973, Hurley filed in Docket No. CI73-558 an application within the contemplation of § 2.70 of the Commission's general policy and interpretation, for a one-year certificate authorizing the sale of gas, formerly sold to Car-Tex, to Texas Eastern Transmission Corporation (Texas Eastern), at a rate of 45.0 cents per Mcf.

On December 9, 1972, prior to the filing of the aforesaid abandonment applications, Car-Tex shut down its compression facilities used to deliver the gas into Arkla's line and Hurley terminated its gas deliveries from the Carthage Field to Car-Tex. Following the filing of the abandonment applications, Car-Tex dismantled its compression facilities and Hurley, in order to avoid flaring gas, undertook a 60-day emergency sale of the gas involved to Texas Eastern at the outlet of the Champlin Processing Plant in the Carthage Field pursuant to Section 157.29 of the Regulations under the Natural Gas Act. The 60-day period expired April 20, 1973.

¹ Car-Tex succeeded to the interest of Rio Saline, Inc., which was classified as a class (D) pipeline company. By Commission order issued February 6, 1969, approving the succession of Car-Tex to Rio Saline, Inc., Car-Tex was classified as a pipeline company for this sale only.

² Hurley previously sold this gas to Car-Tex under a contract, dated January 12, 1961, formerly on file with the Commission as Hurley's FPC Gas Rate Schedule No. 2, for which the related certificate authorization was issued in Docket No. CI61-1381. Such certificate was terminated by a small producer order of October 21, 1971, which also cancelled the above FPC Gas Rate Schedule No. 2.

¹ Concurring statement of Commissioner Moody filed as part of the original document.

By Commission order issued July 12, 1973, Hurley and Car-Tex were ordered to show cause why they or each of them should not be held in violation of section 7(b) of the Natural Gas Act and § 157.18 of the Commission's regulations thereunder for failure to obtain appropriate authorization before abandoning jurisdictional sales and related facilities. Said order also required Texas Eastern to show cause why it should not be held in violation of section 7(c) and (e) of the Natural Gas Act by operating facilities to take gas previously dedicated to Car-Tex and Arkla, and why it should not be compelled to make restitution for the volumes of gas purchased from Hurley during the 60-day emergency period. The show cause order further directed that Arkla be joined as a party to the proceeding and be prepared to show cause why it acquiesced in abandonment of service by Car-Tex while making purchases of gas from others at above ceiling rates.

On September 18, 1973, a hearing was held and the direct testimony of all parties placed into the record. Briefly, the direct evidence indicates that Car-Tex's compression equipment had become inoperable, that the company was operating at a loss, and that Car-Tex was in arrears in its payments for the gas purchased from Hurley. Car-Tex was unable to maintain uninterrupted service and eventually closed down its facilities in or about December 1972, thereby terminating all purchases from Hurley and resales to Arkla. It was also disclosed that Arkla, after it had learned that Texas Eastern was purchasing the Hurley gas at the Champlin plant (to which Arkla was also connected),⁵ offered to buy the gas directly from Hurley at 45.0 cents per Mcf, the same price which Texas Eastern had been previously paying Hurley for such gas.⁴ As a result, Arkla entered into a contract with Hurley for the purchase of the subject gas, provided appropriate authorization was obtained from the Commission (Exh. 17A and 17B).

Following transcription of the direct testimony into the record, the parties proposed a settlement in the matter as set forth in detail in the record of the proceedings (Tr. 83-91). The proposed settlement provides that Arkla purchase the gas from Hurley in accordance with the aforementioned contract. Texas Eastern is willing to relinquish whatever claim, if any, it might have to such gas under its arrangements with Hurley, provided the foregoing show cause order is dismissed with respect to Texas Eastern, without restitution to anyone of gas heretofore purchased by it from Hurley.

⁴ Arrangements were made to sell to Texas Eastern instead of Arkla for the reason that Arkla did not appear on Champlin's Gas Distribution report and it was therefore assumed that Arkla did not purchase from Champlin.
⁵ The volume of gas purchased from Hurley by Texas Eastern during the 60-day emergency period totaled approximately 600 Mcf per day (Tr. 12). The total volume purchased from Hurley by Texas Eastern was 71,445 Mcf (Tr. 84, line 24, as corrected).

The settlement proposes also that the show cause proceedings against Hurley, Car-Tex, and Arkla be dismissed and that the abandonment applications of Hurley and Car-Tex in Docket Nos. CI73-431 and CI73-578, respectively, be granted. It further provides that Hurley's application in Docket No. CI73-558 for a limited term certificate authorizing the sale of gas to Texas Eastern be dismissed and that Car-Tex's certificate authorization for its sale of gas to Arkla be terminated.

Staff counsel offers no objection to the proposed settlement agreed upon by the parties and recommends that all proceedings against Hurley, Car-Tex, Texas Eastern, and Arkla as contemplated by the show cause order be withdrawn (Tr. 90-91). Staff recommends approval of the proposed settlement principally because it provides that the gas involved will remain with Arkla, the original interstate purchaser. It is also apparent that Car-Tex's present equipment for handling the gas is inoperable and that it is financially unable to acquire new facilities. Due to the fact that Hurley is the holder of a small producer certificate, the rate in this case is not an issue. With respect, therefore, to the price of 45.0 cents per Mcf, at which Hurley will sell the gas to Arkla, Hurley's existing small producer certificate allows it to establish such price without further Commission authorization.

The proposed settlement and the record of hearing with respect thereto was certified to the Commission by the Presiding Administrative Law Judge on October 3, 1973.

Appearances had been entered in this proceeding by Algonquin Gas Transmission Company and Columbia Gas Transmission Corporation, but neither company made an appearance at the hearing. After due notice by publication in the Federal Register, no petition to intervene, notice of intervention, or protest to the settlement proposed herein have been filed. Based upon the foregoing analysis and the respective positions of the parties, we believe that the settlement proposed herein resolves all issues and is consistent with the public interest.

The Commission finds:

It is in the public interest to accept and approve the provisions of the settlement as proposed herein.

The Commission orders:

(A) The settlement agreement submitted by the parties in this proceeding is approved as follows:

1. Permission for and approval of abandonment by Hurley of service to Car-Tex as hereinbefore described and as more fully described in the application in Docket No. CI73-431 are granted.
2. Permission for and approval of abandonment of service by Car-Tex to Arkla as hereinbefore described and as more fully described in the application in Docket No. CI73-578 are granted.
3. Hurley's application filed in Docket No. CI73-558 for a limited term certificate

authorizing the sale of gas to Texas Eastern is dismissed.

4. The certificate issued in Docket No. CI61-1379 to Car-Tex authorizing the sale of gas to Arkla is terminated.

5. The show cause order of July 12, 1973, directed against Hurley in Docket No. CS71-878, et al., against Car-Tex in Docket No. CI61-1379, et al., and against Arkla in Docket No. CI73-578, is dismissed as to each of them.

6. The show cause order of July 12, 1973, directed against Texas Eastern in Docket No. CP74-15 is dismissed in all respects.

7. Hurley shall sell the gas hereinbefore described to Arkla under the former's existing certificate in Docket No. CS71-878, pursuant to the contract, dated August 8, 1973, as amended, between the parties.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-2189 Filed 1-25-74; 8:45 am]

[Docket No. RI74-107]

KAISER, HERMAN GEO. (OPERATOR)
ET AL.

Petition for Special Relief

JANUARY 22, 1974.

Take notice that on December 18, 1973, Herman Geo. Kaiser (Operator) et al. (Petitioner), 4120 East 51st Street, Tulsa, Oklahoma 74135, filed a petition for special relief in Docket No. RI74-107, pursuant to § 2.76 of the Commission's general policy and interpretations. Petitioner requests that it be permitted to increase its rate to 30.0 cents per Mcf with a one cent per year escalation for sales of natural gas to Kansas-Nebraska Natural Gas Company, Inc. from the Speakman Well, Section 12-IN-18ECM, Texas County, Oklahoma (Hugoton-Anadarko Area). The petition for relief is based on the installation of compression facilities and it is estimated that an additional 150,000 Mcf of gas will be produced and delivered for use in the interstate markets as a result of the installation of compression.

Any person desiring to be heard or to make any protest with reference to said petition should on or before February 11, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-2195 Filed 1-25-74; 8:45 am]

[Docket No. E-8331]

KENTUCKY UTILITIES CO.**Order Authorizing the Issuance of Securities, Granting Intervention and Consolidating Proceedings**

DECEMBER 28, 1973.

Kentucky Utilities Company (Applicant), filed an application on July 31, 1973, with the Federal Power Commission, seeking an order pursuant to Section 204 of the Federal Power Act to issue unsecured promissory notes (Notes) and commercial paper. The aggregate principal amount of all notes and/or commercial paper shall not exceed \$60,000,000 at any one time.

Applicant is incorporated under the laws of the State of Kentucky with its principal business office at Lexington, Kentucky, and is engaged in the electric utility business in Central, Southeastern and Western Kentucky.

Each note will mature not more than twelve months from the date of issue, but in any event, not later than December 31, 1975. The notes will bear interest at the prime rate of interest prevailing at such bank on the date of each borrowing or the applicable prime rate or rates of interest prevailing at the bank during the term of the notes determined as the rate of interest prevailing on the first business day of each three-months period of the term of the notes. Notes will be issued to renew or refund any notes currently outstanding or to replace any maturing commercial paper of the Applicant.

Applicant also proposes to issue commercial paper which it will sell to one or more established commercial paper dealers. The commercial paper will be dated the date of its issue, and will have varying maturities of not more than nine months from its date of issue, but not later than December 31, 1975. It will be issued and sold in varying amounts or denominations of not less than \$50,000 each, and will be issued and sold at a discount rate which will not exceed the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and maturity. The interest cost will not exceed the effective rate for commercial paper prevailing on the date of issue.

The aggregate principal amount of commercial paper that will be outstanding and unpaid at any time will not exceed an amount equal to 25 percent of the operating revenues of the Applicant for any period of twelve consecutive calendar months ending during the fifteen consecutive calendar months preceding the date of issue of such commercial paper.

The proceeds from the issuance of the notes and/or commercial paper will be added to the general funds of the Applicant and used principally to finance, temporarily, a part of the Applicant's construction expenditures for the years 1973 through 1975, totaling \$224,158,000. The Applicant had net utility plant of \$408,078,583.70 as of May 31, 1973, and had net income of \$18,070,065.62 for the twelve months ended the same date.

Written notice of the application has been given to the Kentucky Public Service Commission and the Tennessee Public Service Commission and to the Governor of each of those States. Notice has also been given by publication in the FEDERAL REGISTER on August 15, 1973 (38 FR 2206), stating that any person desiring to be heard or to make any protest with reference to said application should on or before August 21, 1973, file petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10), with the Federal Power Commission, Washington, D.C. 20426.

On August 21, 1973, the Electric and Water Plant Board of the City of Frankfort, Kentucky (Frankfort), filed a Petition to Intervene, Protest in Request for Hearing, and an Application for Subpoena.

Frankfort's Petition requests that the Commission order a formal hearing in this Docket and further requests that pending such hearing and decision thereon, the Commission deny the application of Kentucky Utilities Company for authority to issue short-term promissory notes, or, if Frankfort's request to deny Kentucky Utilities' application is not granted, that the Commission condition any authorization in this matter upon Kentucky Utilities ceasing its anticompetitive practices and taking action to purge itself of any and all past activities which are violative of the antitrust principles or laws of the United States and of the Federal Power Act. In addition, Frankfort requests that the Commission issue the subpoena applied for by Frankfort which is attached to their petition.

On September 5, 1973, Kentucky Utilities Company filed an Answer to Frankfort's Petition to Intervene and its Application for Subpoena. Kentucky Utilities in general denies the factual allegations set forth by Frankfort in their Petition and requests that the Petition to Intervene and the Application for Subpoena filed by Frankfort be denied. In the alternative, the Company suggests that in the event, however, that the Petition should be granted, the Commission treat the Petition as a Complaint and consolidate it with an existing Complaint proceeding in Docket No. E-7704 and to refer the Application for Subpoena to the Presiding Judge in that Docket.

The Commission in reaching its determination with regard to the field Petition and Application for Subpoena must consider the filing in the light of other previous proceedings. Kentucky Utilities previously filed an Application for authorization of a security issue in Docket No. E-7677, and in addition, filed rates associated with an Interconnection Agreement in Docket No. E-7669. In both of the previous Dockets Frankfort filed Petitions to Intervene alleging facts and anticompetitive results similar to those raised in the instant Docket. In Docket No. E-7677, the Commission severed the anticompetitive conduct issue and treated it as a Complaint and instituted a new proceeding in Docket No. E-7704 for the purpose of providing an Eviden-

tiary Hearing to determine the validity of the facts alleged by Frankfort and the Commission's ability to provide relief under the Federal Power Act. The Commission in addition, set Docket No. E-7669 for hearing.

Based upon Frankfort's intervention in Docket No. E-7677, the Commission on January 26, 1972, issued an order Authorizing the Issuance of Promissory Notes and Granting Intervention to the City of Frankfort. In that order, the Commission stated:

The Commission in reviewing Frankfort's contentions as set forth in their Petition has done so in the light of its overall responsibility under the Federal Power Act. The Commission is aware of its responsibilities with regard to interconnection and coordination of facilities for the purpose of assuring an abundant supply of electric energy throughout the United States with the greatest possible economy, to safeguard the proper utilization and conservation of natural resources, to enhance optimum interconnection and interchangeable electric energy as well as other activities and furtherance of electric energy capability. All of these Commission responsibilities are directed toward safeguarding the cost, rates and reliability.

At the same time, the Commission realized the security issues to provide funds for utility construction and financing programs must be decided in a time frame much more limited than that contemplated for consideration of the alleged anticompetitive activities.

With an awareness of its responsibilities the Commission, however, is unable to determine the merits of Frankfort's contentions and the Commission's authority to grant relief sought without further proceedings in the form of a hearing in which evidence can be presented and legal authority can be cited for granting the relief sought.

The Commission by using the above language made it clear that it did not intend to pre-judge the merits of anticompetitive allegations without a formal and complete hearing, and at the same time, the Commission made it clear that it did not intend to jeopardize adequate electrical service to consumers of Kentucky Utilities Company by placing undue restrictions on Kentucky Utilities' ability to finance electric facilities required to provide adequate service.

This Commission cannot allow consumers served by utilities under its jurisdiction to suffer inadequate service by precipitous action. Consideration of the public interest must necessarily take into account a myriad of factors including anti-competitive allegations. The Commission cannot, however, allow a utility to stop efficient operations pending its determination of the validity of the merits of such allegation. Until a complete evidentiary record has been developed in this Docket and other related Dockets, the Commission cannot assign weight to unproved anti-competitive allegations by Frankfort or unproved defenses by the Company when the result of doing so would occasion a loss or reduction of vital service to the consuming public. To do so would only encourage a private interest to the subversion of the public interest.

The Commission in reaching this conclusion feels it is in complete compliance

with the Supreme Court's ruling in *Gulf States Utilities Company v. F.P.C.* ---- U.S. ---- 36 L.Ed. 2d 635 (1973), where at page 642 the Court said:

In making its determination under section 204(a) the Commission is given broad powers of inquiry and enforcement. By section 204(b) it may hold hearings on the application, may grant the application "in whole or conditions as it may find necessary or appropriate." After opportunity for hearing and for good cause shown, it may supplement, modify, or condition any previous order "as it may find necessary or appropriate." * * * The Court went on further to say at page 646: Our conclusion that, as a general rule, the Commission must consider anticompetitive consequences of the security issue under Section 204 does not mean that the Commission must hold a hearing on objections on every case. Neither does it mean that every allegation must be fully investigated regardless of its facial merit, or that consideration of the allegations may not, in appropriate circumstances, be deferred, or that a major portion of the securities issue may not forthwith be authorized and only the remainder for further study.

The Commission cannot allow the private interest of either the Applicant or Frankfort to override the consideration we must necessarily give to the public now being provided adequate electric service.

In as much as the issues presented by Frankfort in this proceeding involve the same subject matter as those presently subject to hearing in Docket No. E-7704, the Commission feels that it is appropriate to consider the Petition to Intervene filed in this Docket, as a Complaint under section 306 of the Federal Power Act and to consolidate that Complaint with the Complaint previously filed in Docket No. E-7704.

The Commission finds:

(1) Applicant, a corporation, is a public utility within the meaning of section 204 of the Federal Power Act, subject to the jurisdiction of the Commission as the heretofore described and set forth in the Commission's order issued July 6, 1967, Kentucky Utilities Company, Docket No. E-7354.

(2) The proposed issuance and sale of unsecured promissory notes and/or commercial paper, as described above, will constitute an issuance of securities within the purview of section 204 of the Act.

(3) Applicant is not organized and operating in a State under the laws of which the security issues here involved are regulated by a State commission within the meaning of section 204(f) of the Act; and the proposed issuance of securities are therefore, not exempt by virtue of that section from the requirements of section 204 of the Act.

(4) The proposed issuance and sale of promissory notes and/or commercial paper in the aggregate principal amount not exceeding \$60,000,000, all as described above, will be in excess of 5 percent of the par value of the other securities of Applicant, and therefore, will not be exempt by virtue of section 204(e) from the requirements of section 204(a) of the Act.

(5) The proposed issuance and sale of promissory notes and/or commercial paper will be exempt from the competitive bidding requirements of § 34.1a of the Commission's regulations under the Federal Power Act by reason of § 34.1a (a) (2) thereof.

(6) The proposed issuance of securities, as hereinafter authorized, will be for a lawful object, within the corporate purposes of the Applicant and compatible with the public interest, which is appropriate for and consistent with the proper performance of service by Applicant as a public utility, and which will not impair its ability to perform that service and is reasonably necessary and appropriate for such purposes.

(7) The period of public notice given in this matter is reasonable.

(8) Intervention by the above-mentioned Petitioners may be in the public interest for purposes of Commission consideration of their Petition.

(9) The activities alleged in the filed Protest and Petition to Intervene by Frankfort, Kentucky, raise issues which should be heard in a proceeding separate from this Docket.

(10) The Protest and Petition to Intervene filed in this Docket by Frankfort, Kentucky should be considered as a complaint filed under Section 306 of the Federal Power Act.

(11) The Protest and Petition to Intervene filed in this Docket by Frankfort, Kentucky raises issues similar to those being considered in Docket No. E-7704, a Complaint proceeding now before the Commission, and is therefore appropriate that the Complaints filed in this Docket should be consolidated with Docket No. E-7704 for purposes of hearing and decision.

The Commission orders:

(A) The proposed issuance of promissory notes and/or commercial paper in the aggregate principal amount not exceeding \$60,000,000 outstanding at any one time, whether an original issue or a renewal note, upon the terms and conditions and for the purposes set forth in the application all as described above, is hereby authorized, subject to the provisions of this order.

(B) This order is subject to but not necessarily limited to the following express conditions:

(i) Notes issued in the form of promissory notes having maturities of not more than one year from their date of issuance, and notes issued in the form of commercial paper having maturities of not more than 270 days from their date of issue, and upon all notes having maturities of on or before December 31, 1975.

(ii) All notes issued in the form of commercial paper not to exceed 25 percent of the operating revenues for any period of twelve consecutive calendar months ending during the fifteen consecutive calendar months preceding the date of issue.

(iii) All notes issued in the form of promissory notes and/or commercial

paper shall not exceed \$60,000,000 at any one time.

(C) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determination of cost or any other matter whatsoever now pending or which may come before this Commission.

(D) Nothing in this order shall be construed to imply any guaranty or obligation on the part of the United States with respect to any security to which this order relates.

(E) The Electric and Water Plant Board of the City of Frankfort, Kentucky, is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission. Provided, however, the admission of the aforementioned petitioner shall not be construed as recognition by the Commission that the petitioner might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(F) Pursuant to the authority of the Federal Power Act, particularly sections 202, 306 and 307; thereof and the Commission's rules of practice and procedure, an investigation is hereby instituted to determine the justification of the Protest and Petition to Intervene by the Electric and Water Plant Board of the City of Frankfort, Kentucky and, if necessary, to prescribe such relief as is appropriate within the boundaries of the Federal Power Act.

(G) All further proceedings in this Docket shall be consolidated with Complaint proceedings previously instituted in Docket No. E-7704.

(H) The application for Subpoena attached to the Electric and Water Plant Board of the City of Frankfort, Kentucky's Petition to Intervene is hereby referred to the Presiding Administrative Law Judge in Docket No. E-7704 for consideration and ruling.

By the Commission.

[SEAL]

MARY B. KIDD,
Acting Secretary.

[FR Doc. 74-2185 Filed 1-25-74; 8:45 am]

[Docket No. CI74-19]

LVO CORP.

Order Establishing Date for Prehearing Conference and Granting Petition to Intervene

JANUARY 22, 1974.

On July 5, 1973, LVO Corporation (LVO)¹ filed for permission to abandon its sales of natural gas to Kansas-Nebraska National Gas Company, Inc. (Kansas-Nebraska), or in the alternative to receive special relief from the area price ceiling. The gas is produced from the Bradshaw Field, Hamilton County, Kansas, Hugoton-Anadarko,² where the

¹ Formerly Livingston Oil Company.

² Area Rate Proceeding (Hugoton-Anadarko Area), Docket No. AR64-1, et al., 44 F.P.C. 761, (1970); affirmed sub nom. California v. F.P.C., 466 F.2d 974 (9th Cir. 1972).

ceiling price for the applicable portion of the Hugoton-Anadarko Area is 18.5 cents per Mcf. LVO's base rate under FPC Gas Schedule No. 10 currently is 13.5 cents per Mcf. LVO seeks a price increase from 13.5 cents per Mcf to 35.0 cents per Mcf with an annual 1.0 cent per Mcf escalation. Kansas-Nebraska by an agreement dated September 1973 will pay 35 cents per Mcf for the gas if Commission approval of the rate is granted. Kansas-Nebraska, the only party to petition to intervene in this proceeding, opposes LVO's application to abandon sales.

LVO stated that with rising costs of production and decreasing rate of deliveries further sales to Kansas-Nebraska at the present base rate of 13.5 cents per Mcf is uneconomical. Kansas-Nebraska stated that LVO's delivery capability of 18,000 Mcf per day was not taken on a year-round basis because "the reserves attributable to these wells do not warrant taxes at this rate". Kansas-Nebraska also stated that it "purchases from LVO's properties have equalled or exceeded their share of system reserves".

From data supplied by LVO, the Staff prepared a study of LVO's cost of service. Staff concluded that at the present effective rate of 11.6 cents per Mcf, it is not economically feasible for LVO to continue deliveries. Staff, however, also concluded that on the basis of its own cost of service study, there is insufficient cost evidence to justify the 35.0 cents per Mcf rate requested. Staff believes that a portion of the requested rate increase is in order. It is the Commission's intention to examine independently each petition for special relief to determine whether the petitioner has proffered sufficient economic justification for increased rates in excess of the applicable area rate.

Notice of LVO's petition was published in the FEDERAL REGISTER on July 30, 1973 (38 FR 20291). Petitions to intervene were due on August 17, 1973. A petition to intervene was filed by Kansas-Nebraska Natural Gas Company, Inc.

The Commission finds:

(1) It is necessary and in the public interest that this proceeding be set for hearing and that a prehearing conference be held in connection with the issues presented herein.

(2) It is desirable in the public interest to allow the above-mentioned petitioner to intervene in this proceeding.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, a public hearing shall be held concerning the issues presented herein.

(B) Within 20 days of the date of this order, LVO shall file its direct testimony and evidence in support of its petition. All testimony and evidence filed herein shall be served upon the Presiding Administrative Law Judge, Commission Staff, and all other parties to the proceeding.

(C) On March 5, 1974, a prehearing conference shall be held in accordance

with Section 1.18 of the Rules of Practice and Procedure to resolve the issues herein in a hearing room of the Federal Power Commission, Washington, D.C. at 10 a.m.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall convene the prehearing conference in the proceeding.

(E) The Administrative Law Judge may in his discretion grant recesses from time to time if he deems a settlement or submission of the issues upon stipulated facts to be possible. If no stipulation or settlement can be reached by the parties hereto after reasonable time and provision has been made for the same, the presiding Administrative Law Judge shall establish the time for the commencement of hearing.

(F) The above-named petitioner is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however*, That participation of such intervenor shall be limited to matters affecting asserted rights and interests; and *provided, further*, That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

By the Commission.¹

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-2199 Filed 1-25-74; 8:45 am]

[Docket No. RP74-29]

MIDWESTERN GAS TRANSMISSION CO. Change of Definition

JANUARY 21, 1974.

Take notice that on December 26, 1973, Midwestern Gas Transmission Company (Midwestern), a Tenneco company, tendered for filing First Revised Sheet No. 91 to Third Revised Volume No. 1 of its FPC Gas Tariff. The proposed effective date of this sheet is January 26, 1974.

Midwestern states that the sole purpose for the filing is to conform the definition of "Alternate Fuel Capabilities" to the amended definition prescribed by Commission Order No. 493-A, issued in Docket No. R-474 on October 29, 1973, subsequent to Midwestern's initial filing in the above entitled proceeding of its Order No. 467-B curtailment plan for Midwestern's Southern System.

Midwestern requests that its filing be made effective on the proposed effective date of January 26, 1974, without suspension.

Midwestern states that copies of its filing have been mailed to all of its customers, interested state commissions and parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to

¹ Concurring statement of Commissioner Moody filed as part of the original document.

intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All said petitions or protests should be filed on or before January 31, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-2196 Filed 1-25-74; 8:45 am]

[Docket Nos. E-7690, E-7480]

NEPOOL POWER POOL AGREEMENT Order Denying Motion

JANUARY 22, 1974.

The NEPOOL Agreement (NEPOOL), dated September 1, 1971, was tendered for filing as an initial rate schedule on November 12, 1971, and noticed on January 26, 1972.¹ Petitions to intervene were initially filed by the Rhode Island Consumers Council, the City of Holyoke, Massachusetts and the Northeast Public Power Association, Inc. (NEPPA). The provisions of the NEPOOL Agreement are outlined in our September 21, 1972 order in this docket.² That order accepted the NEPOOL Agreement for filing and granted the petitions to intervene. An investigation and hearing were ordered to determine whether the NEPOOL Agreement was just and reasonable under the standards of the Federal Power Act.³

On June 8, 1973, several amendments were deleted the \$3,000 annual charge per participant and provided that any participant, regardless of size, can appeal actions of either the Executive or Operations Committees. The NEPOOL Management Committee stated that these revisions were intended to remove the financial burden that might have deterred smaller systems from joining the power pool, and to facilitate appeals by smaller systems of committee actions.⁴ The June 8, 1973 amendments were noticed on August 9, 1973 and published in the Federal Register on August 11, 1973.⁵

¹ 37 FR 3008.

² 48 FPC 538.

³ On November 22, 1972, the Commission granted rehearing for further consideration of the September 21, 1972 order. However, on December 19, 1972, the application for rehearing was reconsidered and the Commission found that the application failed to present any factual or legal principles which would warrant any change or modification in the initial order, and the application for rehearing was denied.

⁴ See letter dated June 5, 1973, attached to the Agreement Amending NEPOOL Agreement, filed with the Commission on June 8, 1973.

⁵ 38 FR 22073.

On August 28, 1973, a motion to terminate this proceeding was filed on behalf of the Municipal Electric Association of Massachusetts, a group of utilities collectively referred to as the Consumer-Owned Systems,⁸ and the NEPOOL Executive Committee. Attached to the motion was an Agreement Settling Out Supplemental NEPOOL Understandings (Supplemental Agreement), dated April 2, 1973, and those who joined in the above-mentioned motion were also signatories to the Supplemental Agreement. The motion states that the Supplemental Agreement is the culmination of intensive settlement discussions between the parties,⁹ of which the major features are: (a) support of legislation pending in the Massachusetts legislature which would provide municipalities with revenue bonding authority; (b) provision for designation of future consumer-owned units as pool-planned (c) agreement by the parties not to oppose development of several designated generating units; (d) agreement to seek termination of this proceeding, E-7690, and not to intervene in or otherwise oppose any NEPOOL matter pending before the Commission as of the date of the Supplemental Agreement; (e) outline of procedures for electing members to the NEPOOL Executive Committee; (f) agreement by Central Maine Power Company to offer participation in two designated generating units; (g) outline of procedures for using pool transmission facilities to transfer entitlements in units which are not pool-planned; and (h) agreement to support an amendment to NEPOOL giving the NEPOOL Management Committee additional power with respect to the planning of pool transmission facilities. Although the Supplemental Agreement is attached to the August 28, 1973 motion, it has not been filed as a rate schedule with the Commission. The Supplemental Agreement would further amend the NEPOOL Agreement and therefore, should be filed as a change in rate pursuant to section 205(c) of the Federal Power Act, 16 U.S.C. 824d(c), and the Commission's regulations under the Act.

WITHDRAWAL OF OBJECTIONS

On March 5, 1972, NEPPA filed its Protest and Joint Petition to Intervene (hereafter referred to as the initial com-

plaint)⁸ which was the initial formal complaint in this proceeding pursuant to section 306 of the Federal Power Act, 16 U.S.C. 825e⁹. The group of Consumer-Owned Systems¹⁰ who were among the parties to the initial complaint, state in their August 28, 1973 motion that they withdraw their previous objections to the NEPOOL Agreement. Since the Consumer-Owned Systems are no longer adverse to NEPOOL, their controversy with and individual objections to NEPOOL are apparently past history. Accordingly, they are within their rights in choosing not to continue litigation of matters which they no longer find objectionable. However, § 1.11(d)(2) of the Commission's rules of practice and procedure prohibits withdrawal of formal complaints without the Commission's express approval. In this case, we will not allow NEPPA's complaint to be withdrawn.

The Connecticut municipalities of Groton, Jewett City, Norwich, Wallingford, and the Second and Third Taxing Districts of Norwalk (Connecticut Municipal Group) were parties to NEPPA's initial complaint in this proceeding. Although the negotiations and compromise embodied in the NEPOOL Supplemental Agreement were apparently sufficient to satisfy the majority of NEPPA's membership, the Connecticut Municipal Group remains firm in its objections, and it has opposed the motion to terminate this proceeding (See Protest and Motion to Reject, dated September 24, 1973). In addition, the Towns of Concord, Norwood and Wellesley, Massachusetts (Massachusetts Towns), have petitioned to intervene in this proceeding and have joined the Connecticut Municipal Group in protesting the June 8, 1973 Amendments to the NEPOOL Agreement.

Of fundamental importance is the fact that the Connecticut Municipal Group and the Massachusetts Towns have incorporated the objections expressed in the initial complaint as their own (See Petition in Response, dated August 30, 1973). Consequently, the objections to NEPOOL as expressed in the initial complaint remain before us as issues in this proceeding and the complaint cannot be withdrawn. We are directing each member of the intervening

groups to prepare a statement as to precisely what portions of the original NEPPA complaint remain applicable to them at this time. The questions thus raised will be addressed by the present parties and staff before they are ultimately disposed of for the purposes of this proceeding.

MOTION TO TERMINATE E-7690

It appears that the amendments¹¹ to NEPOOL may have settled the issues in this proceeding as they relate to those who have signed the Supplemental Agreement. However, as noted above, there is still substantial opposition to NEPOOL. Moreover, even if this apparent settlement had the unanimous support of all interested parties (which it does not have), the Commission is still required to make findings of fact and conclusions of law based upon the record in support of the settlement. As we stated in our order of March 19, 1973 in Southern California Edison Company, Docket No. E-7618:

(W)e will not, nor cannot, accept the settlement carte blanche. We will, however, accept portions of the settlement as a resolution on the merits as supported by the evidentiary record below.¹²

We previously ordered an investigation and hearing in this proceeding to consider, among other matters, whether the NEPOOL Agreement is contrary to antitrust law and policy, and whether the proposed design and operation of NEPOOL constitute violations of Part 2 of the Federal Power Act.¹³ That the Supplemental Agreement and other amendments to NEPOOL adequately dispose of those issues as they relate to all parties in this proceeding is not self-evident. This is especially true in view of the fact that significant opposition to NEPOOL still exists. The intervenors i.e., the Connecticut Municipal Group and the Massachusetts Towns, represent a sizeable number of those who consume electric energy in the Northeast, as well as a substantial proportion of the generating facilities of NEPPA members. Their continuing objections to NEPOOL and our duty to test the validity of the Supplemental Agreement as a purported settlement of issues, requires that we proceed with the investigation and hearing previously ordered. The motion to terminate this proceeding is denied.

¹¹ That is, the Agreement Amending NEPOOL Power Pool Agreement, dated March 1, 1973 and tendered for filing with the Commission on June 8, 1973, and the Agreement Settling Out Supplemental NEPOOL Understandings, dated April 2, 1973, which as of this date has not been tendered for filing with the Commission.

¹² Opinion No. 654 (page 3 of the slip opinion). Citing Scenic Hudson Preservation Conference v. F.P.C., 354 F. 2d 608, 620 (2d Cir. 1965), cert. denied 384 U.S. 941 (1966). Cf. Udall v. F.P.C., 387 U.S. 428, 450 (1965); EDF v. Ruckelshaus, 439 F. 2d 584, 595-98 (D.C. Cir. 1971). Compare Hugoton-Anadarko Area Rate Case, 466 F. 2d 974 (10th Cir. 1972); Pennsylvania Gas and Water Co. v. F.P.C., 463 F. 2d 1242 (D.C. Cir. 1972).

¹³ 48 FPC 538, 551 (September 21, 1972).

⁸ Those referred to collectively as the Consumer-Owned Systems are: The Municipal Electric Association of Massachusetts; Pascoag Fire District, Pascoag, R.I.; Eastern Maine Electric Cooperative Inc., Calais, Me.; Houlton Water Co., Houlton, Me.; Washington Electric Cooperative, Inc., East Montpelier, Vt.; The Municipal Electric Departments or Light Plants of Ashburnham, Boylston, Georgetown, Holyoke, Hudson, Hull, Littleton, Mansfield, Middleboro, Middleton, North Attleboro, Paxton, Peabody, Shrewsbury, Sterling, and West Boylston, Massachusetts and the Municipal Electric Department, Wolfeboro, N.H.

⁹ See page 2, Withdrawal of Objections, Motion to Terminate Investigation and Hearing, filed August 28, 1973.

⁸ The parties to the protest and joint petition were: Municipal Electric Association of Massachusetts; Pascoag Fire District, Pascoag, R.I.; Eastern Maine Electric Cooperative Inc., Calais, Me.; Houlton Water Co., Houlton, Me.; Washington Electric Cooperative, Inc., East Montpelier, Vt.; The Municipal Utility Department of Groton, Wallingford, Norwich, Jewett City, Norwalk and East Norwalk, Connecticut; The Municipal Electric Department of Light Plants of Ashburnham, Boylston, Braintree, Georgetown, Holyoke, Hudson, Hull, Littleton, Mansfield, Middleboro, Middleton, North Attleboro, Paxton, Peabody, Shrewsbury, Sterling and West Boylston, Massachusetts; and the Municipal Electric Department, Wolfeboro, N.H.

⁹ See 48 FPC 538, 551 (September 21, 1972).

¹⁰ See footnote 4 above.

STATUS OF PREVIOUSLY SUBMITTED
TESTIMONY AND EXHIBITS

The Consumer-Owned Systems' motion of August 28, 1973, professes to withdraw NEPPA's previously submitted testimony and exhibits in this proceeding, specifically that of Messrs. Roger C. Allen, Milton A. Chase, Robert W. Feragen, S. H. King, Arthur Simon, Alban G. Spurrell and Robert G. Taylor. Several factors weigh against permitting such withdrawal. First, the members of the Connecticut Municipal group continue as intervenors in this proceeding, and as members of NEPPA, they participated in the preparation, financing and sponsorship of the testimony. Second, the testimony may have continuing relevance and materiality in terms of the intervenors' objections, as those objections are embodied in the initial complaint which the intervenors had incorporated as their own. Furthermore, the Supplemental Agreement presumably deals with many of the problems discussed in this testimony. Having the testimony before us may expedite analysis of the Supplemental Agreement. Accordingly, the testimony and exhibits will not be withdrawn at the time and we are directing each member of the Connecticut Municipal group and each of the Massachusetts Towns to file written statements specifically addressed to the questions of the availability of the original witnesses and the applicability of the original testimony to the intervenors.

TERMINATION OF DOCKET NO. E-7480,
REMVEC

By letter dated February 27, 1969, the New England Power Company tendered for filing an agreement dated August 1, 1968. The agreement is referred to as REMVEC and it establishes a non-profit central dispatch and interchange office to operate the parties' electric generation and transmission facilities. REMVEC was the first of four such offices established under the NEPOOL Agreement, which operate as satellites to the master New England central dispatch and interchange office (NEPEX). By letter dated April 9, 1969, the Commission accepted the REMVEC Agreement for filing, effective as of April 15, 1969.

On May 9, 1969, the Municipal Electric City of Taunton and the Towns of Braintree, Shrewsbury and Wakefield, Massachusetts, filed an Application for Intervention and Rehearing in Docket No. E-7480 (REMVEC). The Application stated that the provisions of the REMVEC Agreement were contrary to the terms of a prior contract between Boston Edison, a party to REMVEC, and the Town of Braintree, one of the applicants for intervention and rehearing. It was further alleged that REMVEC was unjust, unreasonable, unduly preferential and discriminatory within the meaning of Sections 205 and 206 of the Federal Power Act; that it violated antitrust law and policy, and that it was contrary to the

provisions of Section 202 of the Act. By order dated June 6, 1969, we granted rehearing in Docket No. E-7480. However, no action was taken regarding the applicant's requested intervention.

Two of the applicants, the Municipal Electric Association of Massachusetts and the Town of Shrewsbury, Massachusetts, have withdrawn their objections to the NEPOOL Agreement, and they also joined in the motion to terminate the investigation and hearing in Docket No. E-7690. In addition, Shrewsbury and Wakefield are parties to the NEPOOL Supplemental Agreement. Finally, in the Comments of Municipal Electric Association of Massachusetts et al., filed in Docket No. E-7690 on November 7, 1973, it is stated at pages 5-6 that the Town of Braintree and the City of Taunton are both expected to join NEPOOL. Since three of the five parties who sought intervention in Docket No. E-7480 (REMVEC) are now signatories and the remaining two parties, Braintree and Taunton, are expected to become signatories, it appears that the NEPOOL Supplemental Agreement will settle the objections to the REMVEC Agreement. Accordingly, it would be appropriate to terminate Docket No. E-7480. However, this action is taken without prejudice to the rights of either Braintree or Taunton to file further objections.

The Commission finds:

(1) Good cause exists to accept for filing the amendments to the NEPOOL Agreement tendered on June 8, 1973.

(2) The intervention in this proceeding of the Towns of Concord, Norwood and Wellesley, Massachusetts may be in the public interest.

(3) Termination of Docket No. E-7690 at the present time would be contrary to the public interest.

(4) It appears that the testimony previously submitted in Docket No. E-7690 may have continuing relevance and materiality in terms of the intervenors' allegations.

(5) Good cause exists to terminate Docket No. E-7480.

The Commission orders:

(A) The NEPOOL Executive Committee is hereby directed to file the NEPOOL Supplemental Agreement, dated April 2, 1973, as an amendment to its filed rate schedule.

(B) The amendments to the NEPOOL Agreement dated June 8, 1973, are accepted for filing.

(C) The motion to terminate the investigation and hearing in Docket No. E-7690, is denied.

(D) The Towns of Concord, Norwood and Wellesley, Massachusetts are permitted to intervene in Docket No. E-7690, subject to the Rules and Regulations of the Commission; provided, however, that the admission of these petitioners shall not be construed as recognition by the Commission that the petitioners might

be aggrieved because of any order or orders of the Commission entered in this proceeding.

(E) To the extent that the joint motion of the Municipal Electric Association of Massachusetts and those utilities previously referred to as the Consumer-Owned Systems, dated August 28, 1973, and the motion of Northeast Public Power Association, Inc. (NEPPA), also dated August 28, 1973, seek withdrawal of testimony and exhibits previously submitted in Docket No. E-7690, they are denied.

(F) Docket No. E-7480 is terminated.

(G) On or before February 5, 1974, the Connecticut municipalities of Groton, Jewett City, Norwich, Wallingford, and the Second and Third Taxing Districts of Norwalk, Connecticut, and the Towns of Concord, Norwood, and Wellesley, Massachusetts, shall each file a statement of the status and applicability to each of them of (1) the testimony and exhibits submitted in Docket No. E-7690, and (2) the various objections to the NEPOOL Agreement contained in NEPPA's initial complaint dated March 5, 1972.

(H) On or before February 19, 1974, the intervenors in Docket No. E-7690 will submit their additional testimony and exhibits in this proceeding, if any. The NEPOOL Executive Committee will submit its direct testimony and exhibits on or before March 12, 1974. The direct testimony of Staff will be due on or before April 9, 1974. Hearings in this proceeding will commence with a prehearing conference on April 23, 1974, at 10 a.m., e.d.t., in a hearing room of the headquarters of the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426. Further procedural dates will be set by the Presiding Administrative Law Judge.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-2186 Filed 1-25-74; 8:45 am]

[Dockets Nos. RI74-52, RI74-53]

**R & G DRILLING COMPANY, INC. AND
WILLIAM C. RUSSELL**

Order Giving Notice of Petition for Special Relief and Setting Date for Hearing

JANUARY 22, 1974.

On September 28, 1973 R & G Drilling Company, Inc. and William C. Russell (hereinafter Petitioners) filed proposed rate changes up to a level of 48.0 cents per Mcf for gas produced in San Juan County, New Mexico, which is located in the Rocky Mountain Area. The requested rate increase was suspended until April 1, 1974 by Commission order of October 26, 1973. On November 30, 1973 William C. Russell filed a petition for special relief requesting that the suspension be lifted and that there should be immediate approval of the proposed increase.

[Docket No. E-8176]

SOUTHERN CALIFORNIA EDISON CO.

Order Granting Rehearing

JANUARY 3, 1974.

Petitioners unilateral rate increases followed the expiration, at Petitioners' request, on July 31, 1973 of their basic contracts with the purchaser, El Paso Natural Gas Company.¹ Petitioners have drilled two wells into the San Juan Basin and propose to drill a third. Both completed wells are currently shut-in pending the outcome of this proceeding.

Any person desiring to be heard or to make any protest with reference to the aforementioned petition for special relief should, on or before March 1, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

An examination of the petition and of the data submitted in support thereof presents a question of whether the proposed rate is just and reasonable. Therefore, we deem a hearing to be in the public interest.

The Commission finds:

(1) It is necessary and in the public interest that this proceeding be set for hearing.

The Commission orders:

(A) The petition of William C. Russell requesting relief from the suspension order of October 26, 1973 is hereby denied.

(B) Pursuant to the authority of the Natural Gas Act, a public hearing will be held commencing April 16, 1974 at 10 a.m. (e.d.t.) in a hearing room to be designated at the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 C.F.R. § 3.5(d)), shall preside at the hearing in this proceeding pursuant to the Commission's Rules of Practice and Procedure.

(D) Petitioners and any intervenors supporting Petitioners position shall file their direct testimony and evidence on or before March 15, 1974.

(E) Staff and any intervenors opposing the petition shall file their testimony and evidence on or before March 29, 1974.

(F) Any rebuttal testimony or evidence shall be filed on or before April 5, 1974.

By the Commission.²

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-2193 Filed 1-25-74; 8:45 am]

¹ Each Petitioner's basic contract is designated as its FPC Gas Rate Schedule No. 2.

² Concurring statement of Commissioner Moody filed as part of the original document.

By order of July 6, 1973, in this docket, the Commission, inter alia, accepted for filing and suspended for sixty days a proposed rate increase as it would affect the Anza Electric Cooperative, Incorporated (Anza) and provided for hearing. On July 30, 1973, Anza filed a petition for rehearing of the July 6, 1973 order in which it claimed that its contract with Southern California Edison Company (SCE) must be read in light of California law, and under such law, rate increases may be made effective only after final order of a regulatory body. Anza thus claimed that the decision in *Richmond Power and Light, et al. v. F.P.C.*, 444 F.2d (CADC No. 72-1963), applies and therefore SCE's rate increase to Anza cannot be made effective until after Commission action approving the new rate. Anza also pointed out that its contract with SCE was subject to termination upon 90 days notice to Anza but that SCE had not given such notice.

By order of August 29, 1973, the Commission granted Anza's petition for rehearing because we found that, although Article V of Anza's contract with SCE permits SCE to make a unilateral rate increase filing, that article permits a rate increase to be made effective only after Commission order. The Commission further noted that SCE had not given the ninety day notice required by Article XI of the contract. Accordingly, the Commission accepted SCE's filing as being made pursuant to Article V and amended its July 6, 1973, order to provide that Edison's rate increase as to Anza may be made effective only after final Commission order.

On September 13, 1973, SCE filed a response to Anza's petition for rehearing and an application for rehearing and modification of the August 29, 1973, order. This application was subsequently granted for the purpose of further consideration by order of October 12, 1973.

SCE's application states that there is no proper basis for reading into Article V the requirement that a rate increase can only be made effective after Commission order. SCE contends that the method of changing rates is "in the manner prescribed by law", and that such manner for making unilateral rate changes is found in the Federal Power Act.¹ It is, according to SCE, contrary to Section 205 to only permit an increase to go into

¹ Article V of Anza's contract with Edison provides, inter alia: "The rates, including terms and conditions stated in this contract, are subject to change by any regulatory body now in existence or hereinafter created by law having jurisdiction in the manner prescribed by law. In the event of such change, the new rates and terms and conditions as prescribed shall apply to this contract for the unexpired terms hereof. In the event that any regulatory body shall order a rate increase, Cooperative may at its option terminate this contract at any time by written notice to Company."

effect after final Commission order. Finally, SCE contends that the Commission's order of August 29 would effectively suspend SCE's filing beyond the five-month maximum suspension period permitted under section 205 of the Act. SCE, therefore, asks that the August 29 order be modified by eliminating the amendment to the July 6 order contained therein.

In our August 29, order, we found that California law (to the effect that rate increase may be made effective only after final order of a regulatory commission) was not applicable despite the contention of Anza that at the time the contract was executed it was generally assumed that the California Public Service Commission had jurisdiction. This conclusion was based upon language in Article V to the effect that the rates, terms and conditions of the contract are "subject to change by any regulatory body now in existence or hereinafter created by law having jurisdiction in the manner prescribed by law". Nevertheless, our reading of the language of Article V was that it permitted rate increases to go into effect upon a unilateral filing only after final Commission order. We have again reviewed the language in Article V in light of the interpretation which SCE urges upon us, and it is our conclusion that Article V does not prevent us from placing the proposed rates in effect subject to refund under the provisions of section 205 of the Federal Power Act. We shall therefore amend our August 29, 1973 order to eliminate its modification of the July 6, 1973, order and permit SCE's proposed rate increase to become effective as to Anza, but subject to refund pending final order in this docket, as of the conclusion of the suspension period on September 7, 1973.

We note that SCE filed with the Commission on September 10, 1973, a notice of cancellation of FPC Rate Schedule No. 19 under which Anza receives service to be effective December 7, 1973. By letter order dated December 6, 1973, the Commission permitted the schedule originally filed in this docket to become effective, upon cancellation of the underlying contract, as of December 7, 1973, subject to refund pending final determination of the proceeding in this docket. In view of our action herein, the December 7 effective date is, of course, no longer applicable.

The Commission finds:

Good cause has been shown by the application for rehearing of the Commission's order of August 29, 1973, which was filed on September 13, 1973, by SCE, to warrant modification of our order of August 29, 1973 in this docket.

The Commission orders:

(A) The Commission's order of August 29, 1973, in this docket is hereby amended to eliminate its modification of our July 6, 1973 order.

(B) SCE's proposed rate increase shall become effective as to Anza but subject to refund pending final order in this docket, as of the conclusion of the suspension period ordered in this proceeding, on September 7, 1973.

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

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.
[FR Doc.74-2197 Filed 1-25-74;8:45 am]

[Docket No. RP74-24]

TENNESSEE GAS PIPELINE CO.
Filing of Changes of Definitions in
Curtailement Plan

JANUARY 21, 1974.

Take notice that on December 26, 1973, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), tendered for filing First Revised Sheet Nos. 213G and 213H to Ninth Revised Volume No. 1 of its FPC Gas Tariff. The proposed effective date of these sheets is January 26, 1974.

Tennessee states that the sole purpose of First Revised Sheet Nos. 213G and 213H is to conform the definitions of "Commercial" and "Alternate Fuel Capabilities" to the revised definitions adopted by the Commission in its Errata Notice issued September 29, 1973 to Order No. 493 and in its Order No. 493-A issued October 29, 1973.

Tennessee requests that the tariff sheets be accepted on the proposed effective date of January 26, 1974, without suspension.

Tennessee further states that copies of its filing have been mailed to all of its effected customers, interested state commissions and the parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 31, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-2188 Filed 1-25-74;8:45 am]

[Docket No. E-7929]

TOLEDO EDISON CO.

Order Denying Motion To Change Interest Rates on Refunds

JANUARY 3, 1974.

On October 9, 1973, the Cities of Bowling Green and Bryan, Ohio (Cities) filed

a motion to change the rate on refunds. Cities propose that the Commission change the interest rate on refunds to 10.5 percent.

In support of its motion, Cities states that payments subject to refund are actually a source of short-term capital and therefore the refund money substitutes for investor contributed capital. Furthermore, Cities states that an interest rate which is too low unduly encourages utilities to continue litigation and in turn, discourages settlement.

In Order No. 442, issued December 2, 1971, this Commission ordered that the amount of interest payable on monies ordered to be refunded by public utilities and pipeline companies be computed at the fixed annual rate of seven percent. In Order No. 442, we stated: "We must reject the use of a prime rate as recommended by some respondents because the prime rate not only tends to be fluctuating but does not represent the effective rate of interest for short-term loans". We have not changed our view on this matter and accordingly, we shall deny Cities' motion to change the rate of interest on refunds.

The Commission finds:

Good cause does not exist to grant Cities' motion to increase the refund interest rate.

The Commission orders:

(A) Cities' motion to change interest rates on refunds filed on October 9, 1973, is hereby denied.

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

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-2198 Filed 1-25-74;8:45 am]

NATIONAL POWER SURVEY TASK FORCE—EFFECTS OF LONG-TERM ELECTRICAL POWER SUPPLY SHORTAGES

Determination and Certification

JANUARY 24, 1974.

The Chairman of the Federal Power Commission has determined that the establishment of a new task force functioning subordinate to, but independently of, the Executive Advisory Committee of the Federal Power Commission's National Power Survey is necessary in the public interest in connection with the performance of duties imposed on the Commission by law. The proposed task force is to be designated "Effects of Long-Term Electric Power Supply Shortages."

This notice is published pursuant to the Commission's General Order No. 464, issued December 19, 1972, paragraph 4 (c) and authorities referred to therein, 38 FR 1083, 1086.

Task forces previously established by the Commission in the conduct of the National Power Survey are subordinate organizationally to the respective technical advisory committees. The purposes of these task forces, as indicated in prior

Commission orders, are to study and analyze designated subjects and submit reports thereon to their respective technical advisory committees, 48 FPC -----

The exigencies of the national energy crisis and long-term energy policy strategy has been more fully delineated since commencement of the current National Power Survey in 1972. This has resulted in a clearer recognition of problems which may arise from insufficient development over the next decade of resources and technology to meet projected growth in electric energy requirements. The purpose of the task force proposed herein will be to conduct an intensive investigation into these problems. It will study and analyze the effects of long-term electric power supply shortages and make recommendations for appropriate actions by Government and the public sector to cope with them. The members of the proposed task force will be selected by the Chairman with approval of the Commission and shall be fairly balanced in terms of points of view represented and the functions to be performed by said task force.

The Office of Management and Budget, Committee of Management and Budget, Committee of Management Secretariat, has determined that establishment of the subject task force as set forth above is consistent with the requirements of the Federal Advisory Committee Act, 86 Stat. 770.

Establishment of the proposed task force will be reflected in an appropriate Commission order to be issued after February 1, 1974.

JOHN N. NASSIKAS,
Chairman.

[FR Doc.74-2260 Filed 1-25-74;8:45 am]

[Project 943—Washington]

**PUBLIC UTILITY DISTRICT NO. 1,
CHELAN COUNTY, WASH.**

Availability of Environmental Impact Statement

Notice is hereby given that on January 28, 1974, as required by the Commission rules and regulations under Order 415-C, issued December 18, 1972, a final environmental impact statement prepared by the Commission's staff pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-100) was placed in the public files of the Federal Power Commission. This statement deals with the environmental impact of an application filed February 15, 1973, by Public Utility District No. 1 of Chelan County to amend its existing major license to construct, operate, and maintain a second powerhouse at the Rock Island Project No. 943, located on the Columbia River in Chelan and Douglas Counties, Washington.

This statement is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426 and its San Francisco Regional Office located at 555 Battery Street, San Francisco, California 94111.

Copies may be ordered from the National Technical Information Service, Department of Commerce, Springfield, Virginia 22151 and the Commission's office of Public Information, Washington, D.C. 20426.

Applicant seeks Commission approval of its proposal to increase the installed capacity of the project by 410,400 kW (410.4 MW). To increase the installed capacity, Licensee proposes to raise the reservoir 6.1 feet from elevation 608 to 614.1 and to construct additional project works comprising a second project powerhouse containing eight horizontal shaft, bulb-turbine generator units (51.3 MW each), a new fish passage facility replacing the existing right bank fish ladder, an extension of the existing middle and left bank fish ladders, the addition of two miles of new 115 kV transmission lines, and other alterations to existing facilities to accommodate the raised reservoir forebay.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-2259 Filed 1-25-74;8:45 am]

FEDERAL RESERVE SYSTEM FIRST AT ORLANDO CORP.

Acquisition of Bank

First at Orlando Corporation, Orlando, Florida, has applied for the Board's approval under section 3(a) (3) of the Bank Holding Company Act (12 U.S.C. 1842(a) (3)) to acquire 90 per cent or more of the voting shares of Citizens National Bank of Naples, Naples, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 17, 1974.

Board of Governors of the Federal Reserve System, January 18, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-2180 Filed 1-25-74;8:45 am]

FIRST BANCSHARES OF FLORIDA, INC.

Acquisition of Bank

First Bancshares of Florida, Inc., Boca Raton, Florida, has applied for the Board's approval under section 3(a) (5) of the Bank Holding Company Act (12 U.S.C. 1842(a) (5)) to merge with Com-Banks Corporation, Winter Park, Florida, under the charter and name of First Bancshares of Florida, Inc. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the

application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 14, 1974.

Board of Governors of the Federal Reserve System, January 18, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-2181 Filed 1-25-74;8:45 am]

TENNESSEE VALLEY BANCORP, INC.

Acquisition of Bank

Tennessee Valley Bancorp, Inc., Nashville, Tennessee, has applied for the Board's approval under section 3(a) (3) of the Bank Holding Company Act (12 U.S.C. 1842(a) (3)) to acquire 51 percent or more of the voting shares of Guaranty Bank and Trust Company, Memphis, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 14, 1974.

Board of Governors of the Federal Reserve System, January 18, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-2182 Filed 1-25-74;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

LONESOME PINE COAL CO. ET AL.

Opportunity for Public Hearing

Applications for Initial Permits for Noncompliance with the Electric Face Equipment Standard has been received for items of equipment in the underground coal mines listed below.

(1) ICP Docket No. 4199-000, LONESOME PINE COAL COMPANY, Mine No. 1, Mine ID No. 44 00713 0, Vansant, Virginia.

(2) ICP Docket No. 4201-000, LANE HOLLOW COAL COMPANY, Mine No. 21, Mine ID No. 44 02258 0, Maxie, Virginia.

(3) ICP Docket No. 4202-000, BELIBE COAL CORPORATION, Mine No. 5, Mine ID No. 44 02728 0, Pearley, Virginia.

(4) ICP Docket No. 4203-000, BELIBE COAL CORPORATION, Mine No. 6, Mine ID No. 44 02756 0, Pearley, Virginia.

(5) ICP Docket No. 4204-000, BELIBE COAL CORPORATION, Mine No. 4, Mine ID No. 44 00362 0, Pearley, Virginia.

(6) ICP Docket No. 4205-000, ROBINSON PHILLIPS COAL COMPANY, Indian No. 8 Mine, Mine ID No. 46 03831 0, Baileysville, West Virginia.

(7) ICP Docket No. 4206-000, CARNEAL COAL COMPANY, Mine No. 2, Mine ID No. 46 01982 0, Clifftop, West Virginia.

(8) ICP Docket No. 4207-000, CARNEAL COAL COMPANY, Mine No. 1, Mine ID No. 46 01635 0, Clifftop, West Virginia.

(9) ICP Docket No. 4208-000, MAGGARD COAL COMPANY, INC., Mine No. 18, Mine ID No. 44 01815 0, Richlands, Virginia.

(10) ICP Docket No. 4209-000, GRAY FORK COAL COMPANY, Mine No. 1, Mine ID No. 15 05021 0, Manchester, Kentucky.

(11) ICP Docket No. 4210-000, SPRING HOLLOW COAL COMPANY, Mine No. 3, Mine ID No. 44 00793 0, Harman, Virginia.

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., Pub. L. 91-173), notice is hereby given that requests for public hearing as to an application for an initial permit may be filed on or before February 12, 1974. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel 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. HORNBECK,
Chairman,
Interim Compliance Panel.

JANUARY 22, 1974.

[FR Doc.74-2177 Filed 1-25-74;8:45 am]

MARY E. COAL CO., INC., ET AL.

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. 4212-000, MARY E COAL COMPANY, INC., Mine No. 1, Mine ID No. 44 01512 0, Whitewood, Virginia.

(2) ICP Docket No. 4213-000, SMALLWOOD COAL COMPANY, Mine No. 124 Mine ID No. 15 04124 0, Elkhorn City, Kentucky.

(3) ICP Docket No. 4214-000, K & F COAL COMPANY, INC., Mine No. 10, Mine ID No. 15 04604 0, Ashcamp, Kentucky.

(4) ICP Docket No. 4215-000, GOLDEN GLOW COALS, INC., Mine No. 1, Mine ID No. 15 01989 0, Liggett, Kentucky.

(5) ICP Docket No. 4216-000, GOLDEN GLOW COALS, INC., Mine No. 2, Mine ID No. 15 02634 0, Liggett, Kentucky.

(6) ICP Docket No. 4217-000, STELLA MARIS COAL COMPANY, Stella Maris Mine, Mine ID No. 26 01163 0, Dysart, Pennsylvania.

(7) ICP Docket No. 4219-000, O. C. COAL COMPANY, Mine No. 2, Mine ID No. 05 00259 0, Gunnison, Colorado.

(8) ICP Docket No. 4220-000, G & H COAL COMPANY, Mine No. 5, Mine ID No. 15 02325 0, Hyden, Kentucky.

(9) ICP Docket No. 4221-000, T & H COAL COMPANY, Mine No. 1, Mine ID No. 44 00916 0, Vansant, Virginia.

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 on or before February 12, 1974. Requests for public hearing must be filed in accordance with 30 CFR Part

505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel 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. HORNBECK,
Chairman,
Interim Compliance Panel.

JANUARY 22, 1974.

[FR Doc.74-2176 Filed 1-25-74;8:45 am]

NATIONAL SCIENCE FOUNDATION ADVISORY PANEL FOR METABOLIC BIOLOGY

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), notice is hereby given of a meeting of the Advisory Panel for Metabolic Biology to be held at 9 a.m. on February 14 and 15, 1974, in Room 517 at 1800 G Street NW., Washington, D.C. 20550.

The purpose of this Panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. The agenda will be devoted to the review and evaluation of research proposals.

This meeting is concerned with matters which are within the exemptions of 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of P.L. 92-463.

For further information concerning this Panel, contact Dr. Elijah B. Romanoff, Metabolic Biology Program, Room 323, 1800 G Street NW., Washington, D.C. 20550.

T. E. JENKINS,
Assistant Director
for Administration.

JANUARY 17, 1974.

[FR Doc.74-2205 Filed 1-25-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License 04/04-5092]

FORSYTH COUNTY INVESTMENT CORP.

Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Forsyth County Investment Corporation (licensee), Suite 305, Pepper Building, Fourth and Liberty Streets, Winston-Salem, North Carolina 27101, a small business investment company licensed under Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act), has filed with the Small Business Administration (SBA) an application for exemption from the provisions of § 107.1004 (38 FR 30836, November 7, 1973).

Licensee proposes to make a 7-year loan in the principal amount of \$20,000

to Shaw's Tire Service (Shaw's). Licensee's proposed financing represents a minor portion of an overall financing totaling \$97,000 being obtained from other sources.

The proposed financing comes within the purview of the above-cited regulation by virtue of the fact that Mr. James W. Shaw is the owner of Shaw's Tire Service and until October 8, 1973, has been an officer and director of the licensee. Since Mr. Shaw's affiliation with the licensee falls within the definition of an associate of the licensee under § 107.3(g) (38 FR 30836, November 7, 1973), the transaction comes within the provisions of § 107.1004 of the regulations.

Notice is hereby given that any person may, on or before February 12, 1974, submit comments to SBA on the proposed transaction. Any such comments should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

Notice is further given that any time after such date, SBA may dispose of the application on the basis of the information set forth therein and other relevant data.

Dated: January 17, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator
for Investment.

[FR Doc.74-2179 Filed 1-25-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 432]

ASSIGNMENT OF HEARINGS

JANUARY 23, 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 28, 1974.

MC-F-11899, Georgia Highway Express, Inc.—Purchase—Goode Transfer Inc., which application was republished in the FEDERAL REGISTER on January 23, 1974, remains assigned for hearing February 25, 1974, at Court Room No. 2, 5th Floor, 1114 Market Street, St. Louis, Mo.

MC 133937 Sub 14, Carolina Cartage Co., Inc., now assigned February 12, 1974, will be held in the Wallace Room, Sims Building, 3rd Floor, 2600 Bull St., Columbia, S.C.

MC-C-8187, Sam Tanksley Trucking, Inc., Investigation and Revocation, MC 105566 Sub 40, Sam Tanksley Trucking, Inc., Extension—Kingsport and New Canton, Tenn., MC 105566 Sub 47, Sam Tanksley Trucking,

Inc., Extension—Columbus, Ohio, MC 105566 Sub 64, Sam Tanksley Trucking, Inc., Extension—Kroger Dairy, MC 105566 Sub 69, Sam Tanksley Trucking, Inc., Extension—New Hampton, Iowa, I & S M-27038, Heating & Cooling Equipment, Columbus, Ohio, to the West, I & S M-27039, Dairy & Ice Cream Products, Indianapolis, Ind., to Ark., Texas, & Calif., I & S M-27072, Frozen Foods, New Hampton, Iowa, to The East, and I & S M-27144, Printed Matter, Tennessee to Western States, now assigned hearing January 28, 1974, at Washington, D.C., is postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-2227 Filed 1-25-74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 23, 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 February 12, 1974.

FSA No. 42797—Joint Water-Rail Container Rates—Zim Israel Navigation Co., Ltd. Filed by Zim Israel Navigation Co., Ltd. (No. 6), for itself and interested rail carriers. Rates on general commodities, from ports of Keelung and Kaohsiung, Taiwan, to railroad terminals at U.S. Atlantic and Gulf Coast ports.

Grounds for relief—Water competition. Tariff—Zim Israel Navigation Co., Ltd., tariff I.C.C. No. 5, F.M.C. No. 26. Rates are published to become effective on February 28, 1974.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-2231 Filed 1-25-74;8:45 am]

[Notice 12]

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 18,

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-74742. By order of January 22, 1974, the Motor Carrier Board approved the transfer to American Trans-Continental Van Lines, Inc., Lincoln, Nebr., of the operating rights in Certificates No. MC-128741, MC-128741 (Sub-No. 1), MC-128741 (Sub-No. 2), and MC-128741 (Sub-No. 3) issued May 4, 1967, August 9, 1967, August 8, 1967, and May 10, 1971, respectively to North Central Van Lines, Inc., Lincoln, Nebr., authorizing the transportation of household goods between specified points and areas in Alabama, Arkansas, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, New Jersey, New York, North Carolina, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia. Gailyn L. Larsen, 521 South 14th St., Lincoln, Nebr. 68501, Attorney for applicants.

No. MC-FC-74770. By order of January 18, 1974, the Motor Carrier Board approved the transfer to Ray Wagner & Son Trucking Co., Inc., Owen, Wis., of the operating rights in Certificates Nos. MC-136545 (Sub-No. 1), MC-136545 (Sub-No. 3), and MC-136545 (Sub-No. 6), issued December 13, 1972, August 17, 1973, and January 30, 1973, respectively, to Nussberger Bros. Trucking Co., Inc., Prentice, Wis., authorizing the transportation of feed, fertilizer, tankage, and farm machinery, from South St. Paul, St. Paul, Newport, and Minneapolis, Minn., to points in Marathon County, Wis.; animal and poultry feed and animal and poultry feed concentrates, from Minneapolis and St. Paul, Minn., to points in Ashland, Iron, Price, Taylor, Vilas, Oneida, Lincoln, Marathon, Langlade, Forest, Florence, Marinette, Oconto, Shawano, Menominee, Outagamie, Brown, Kewaunee, and Door Counties, Wis., and soy bean meal (except in bulk, in tank vehicles), from the plant site of Cargill, Inc., at Savage, Minn., to points in the above-named counties in Wisconsin. F. H. Kroeger, 2288 University Avenue, St. Paul, Minn. 55114 Registered Practitioner for applicants.

No. MC-FC-74882. By order of January 17, 1974, the Motor Carrier Board approved the transfer to Davis Hauling Company, Inc., P.O. Box 4018, Augusta, Ga., of Certificate No. MC-129085 issued to Charles Davis, Jr., Doing Business As Davis Trucking Co., Augusta, Ga., authorizing the transportation of: Plant mix asphalt and such aggregates as are used in the construction of highways or other paved surfaces, from points in Richmond County, Ga., to points in Aiken, Lexington, Richland, Saluda, Greenwood, Edgefield, McCormick,

Barnwell, Allendale, Bamberg, and Orangeburg Counties, S.C.

No. MC-FC-74927. By order of January 22, 1974, the Motor Carrier Board approved the transfer to Scharff Motor Freight, Inc., 2210 E. Portland Road, Newberg, Oreg. 97132, of the operating rights in Certificate No. MC-30046 (Sub-No. 3), issued January 12, 1973, to G. Margaret Scharff, doing business as Scharff Motor Freight, same address, Newberg, Oreg., authorizing the transportation of lumber, lumber products, sawdust, wood chips, hogfuel, and wood residuals, from and to named points in Oregon and Washington.

No. MC-FC-74938. By order of January 22, 1974, the Motor Carrier Board approved the transfer to Allen Delbert Meyer, doing business as A & L Truck line, 2 North Dakota St., Aberdeen, S.D. 57401, of the operating rights in Certificate No. MC-134312 issued July 2, 1970, to Donald M. Wilber and Marilyn L. Wilber, a partnership, doing business as Wilber Truck Line, 2 North Dakota St., Aberdeen, S.D. 57401, authorizing the transportation of general commodities, with exceptions, between specified points in South Dakota and North Dakota.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-2228 Filed 1-25-74;8:45 am]

[Notice 9]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 18, 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 210(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 4483 (Sub-No. 18 TA), filed January 11, 1974. Applicant: MONSON

DRAY LINE, INC., Route 1, Red Wing, Minn. 55066. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lumber, from Thunder Bay, Ontario, Canada via United States-Canada port of entry at or near Grand Portage, Minn., to points in Michigan, Indiana, Illinois, Wisconsin, Iowa, Minnesota, North Dakota, South Dakota, Nebraska, Kansas, and Missouri, for 180 days. SUPPORTING SHIPPER: The Great Lakes Paper Company, Limited, Box 430, Thunder Bay, Ontario, Canada. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 45134 (Sub-No. 12 TA), filed January 11, 1974. Applicant: COLLINS TRUCK LINE, INC., 3705 Marshall Street NE., Minneapolis, Minn. 55421. Applicant's representative: Louis I. Daily, 2208 Sterick Bldg., Memphis, Tenn. 38103. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: Building, roofing and insulating materials and materials used in the manufacture, installation, and distribution thereof (except iron and steel articles, commodities in bulk, and those which because of size or weight require special equipment or handling), between the plant sites and warehouse facilities of Certain-Teed Products Corporation located in Scott County, Minn., on the one hand, and, on the other, points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Montana, Nebraska, North Dakota, Wisconsin, Wyoming, and Ohio, restricted to traffic originating at or destined to the plant sites and warehouse facilities of Certain-Teed Products Corporation located in Scott County, Minn., for 180 days. SUPPORTING SHIPPER: Certain-Teed Products Corporation, P.O. Box 860, Valley Forge, Pa. 19482. SEND PROTESTS TO: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Bldg. & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 59856 (Sub-No. 58 TA), filed January 9, 1974. Applicant: SALT CREEK FREIGHTWAYS, a Corporation, Off: 333 W. Yellowstone Highway, P.O. Box 39, Casper, Wyo. 82601. Applicant's representative: John R. Davidson, Rm. 805 Midland Bank Bldg., Billings, Mont. 59101. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment because of size or weight), (1) Between Rapid City, S. Dak., and Spearfish, S. Dak., from Rapid City over Interstate Highway 90 and U.S. Highway 14 to Spearfish and return over the same routes, serving no intermediate points, except serving Sturgis,

S. Dak., for the pick-up of lumber only and (2) Between Newcastle, Wyo., and Rapid City, S. Dak., from Rapid City over U.S. Highway 16 to Newcastle, and return over the same routes, serving no intermediate points, for 180 days. RESTRICTION: Items (1) and (2) above are restricted against traffic originating at or destined to South Dakota points which moves from, to or through Denver, Colo.

NOTE.—Applicant intends to tack with MC 59856 (Sub-No. 44), at Spearfish, S. Dak., and MC 59856 (MC-F-11425), and (Sub-No. 48) at Newcastle, Wyo.

SUPPORTING SHIPPERS: There are approximately 35 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 Paul A. Naughton, Bureau of Operations, Interstate Commerce Commission, Rm. 1006 Federal Bldg. & Post Office, 100 East "B" Street, Casper, Wyo. 82601.

No. MC 87103 (Sub-No. 8 TA), filed January 10, 1974. Applicant: MILLER TRANSFER AND RIGGING CO., a Corporation, P.O. Box 6077, Akron, Ohio 44312, and Off: 3917 State Rt. 183, Edinburg, Ohio 58227. Applicant's representative: A. David Millner, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Off-the-road equipment tires and earthmoving equipment tires which because of size and weight require special equipment, from Akron and Bryan, Ohio, to points in the United States (including Alaska but excluding Hawaii); (2) Used-off-the-road equipment tires and used earthmoving equipment tires which because of size and weight require special equipment, between points in the United States (including Alaska but excluding Hawaii); and (3) Refused and rejected off-the-road and earthmoving equipment tires and such tires being returned for repair or recapping, from points in the United States (including Alaska but excluding Hawaii), to Akron and Bryan, Ohio, for 180 days. SUPPORTING SHIPPER: The General Tire & Rubber Company, One General Street, Akron, Ohio 44309. SEND PROTESTS TO: Franklin D. Ball, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 113410 (Sub-No. 83 TA), filed January 11, 1974. Applicant: DAHLEN TRANSPORT, INC., 1680 Fourth 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: Liquid animal feed, liquid animal feed supplements, and molasses, in bulk, in tank vehicles, from Savage, Minn., to points in Iowa, North Dakota, South Dakota, and Wisconsin, for 180

days. SUPPORTING SHIPPER: Cargill, Incorporated, Cargill Building, Minneapolis, Minn. 55402. SEND PROTESTS TO: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55402.

No. MC 113908 (Sub-No. 299 TA), filed January 10, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 3180 Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Dry animal and poultry feed ingredients, supplements, and animal and poultry health aids, from the plantsite and/or storage facilities of Hoffman-Taff, Inc., a subsidiary of Syntex Laboratories located at or near Verona, Mo., to points in Alabama, Illinois, Indiana, Iowa, Kentucky, Louisiana, North Dakota, Nebraska, Pennsylvania, South Dakota, and Tennessee, for 180 days. SUPPORTING SHIPPER: Hoffman-Taff, Inc., P.O. Box 1246 S.S.S., Springfield, Mo. 65806. SEND PROTESTS TO: District Supervisor John V. Barry, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 114004 (Sub-No. 137 TA), filed January 10, 1974. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, P.O. Box 1715, Little Rock, Ark. 72209. Applicant's representative: Harold Hernle, Jr., 118 N. St. Asaph Street, Alexandria, Va. 22314. 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, and buildings, in sections, from Idabel, Okla., to points in Arkansas, Louisiana, Texas, and Missouri, for 180 days. SUPPORTING SHIPPER: Rapides Homes, Inc., P.O. Box 9, Idabel, Okla. 74745. SEND PROTESTS TO: District Supervisor, William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 117765 (Sub-No. 170 TA), filed January 10, 1974. Applicant: HAHN TRUCK LINE, INC., 5315 NW. 5th, P.O. Box 75218, Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagan (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Roofing and roofing material, in rolls, containers or bundles, in straight or mixed shipments, from the plantsite facilities of Allied Materials, Inc., Stroud, Okla., to points in Kansas and Missouri, for 180 days. SUPPORTING SHIPPER: Glen Bateman, Traffic Manager, Allied Materials Corporation, 5101 N. Penn. Ave., P.O. Box 12340, Oklahoma City, Okla. 73112. SEND PROTESTS TO: C. L. Phillips, District Su-

pervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240—Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 124144 (Sub-No. 11 TA), filed January 9, 1974. Applicant: ROBERT N. TOOMEY, doing business as ROBERT N. TOOMEY TRUCKING CO., 1516 South George, York, Pa. 17403. Applicant's representative: Charles E. Creager, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Chains and miscellaneous attachments and hardware therefor, cable, wire rope, chain manufacturing equipment, and advertising display paraphernalia, from York, Pa., to points in Washington, Oregon, California, Idaho, Nevada, Montana, Wyoming, Utah, Arizona, Colorado, New Mexico, Oklahoma, and Texas, under a continuing contract or contracts with Campbell Chain Co. of York, Pa., for 180 days. SUPPORTING SHIPPER: Campbell Chain Company, 3990 East Market Street, York, Pa. 17405. 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 127539 (Sub-No. 31 TA), filed January 10, 1974. Applicant: PARKER REFRIGERATED SERVICE, INC., 3533 E. 11th Street, Tacoma, Wash. 98421. 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: Horse meat, from the plant site facilities of Chambers Packing Co., near Olympia, Wash., to the United States-Canada Port of Entry at Blaine, Wash., for 180 days. SUPPORTING SHIPPER: Chambers Packing Company/Northwest Cattle Co., USDA Plant E-6429, Route 4, Box 304, Olympia, Wash. 98501. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 6049 Federal Office Bldg., Seattle, Wash. 98104.

No. MC 129876 (Sub-No. 8 TA), filed January 10, 1974. Applicant: DUBOIS TRUCKING, INC., P.O. Box 502, Montpelier, Vt. 05602. Applicant's representative: John P. Monte, 61 Summer Street, Barre, Vt. 05641. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Petroleum products, in bulk, in tank type vehicles, from Albany, N.Y., Commercial Zone and Comstock, N.Y., to Barre, Barre Town, Berlin, Montpelier, Northfield, and Williamstown, Vt. for 180 days. SUPPORTING SHIPPER: Twin City Fuel Co., Inc., Montpelier Road, Barre, Vt. 05641. SEND PROTESTS TO: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, P.O. Box 548, Montpelier, Vt. 05602.

No. MC 135425 (Sub-No. 6 TA), filed January 9, 1974. Applicant: CYCLES

LIMITED, P.O. Box 7515, Jackson, Miss. 39208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Such commodities as are manufactured or sold by a manufacturer of paint and paint products, and materials, supplies, and equipment used in the conduct of such business, between Baltimore, Md., on the one hand, and, on the other, points in the United States (except Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Montana, Idaho, Oregon, Washington, Alaska, and Hawaii) for 180 days. SUPPORTING SHIPPER: Baltimore Paint and Chemical Corporation, 2325 Hollins Ferry Road, Baltimore, Md. 21230. SEND PROTESTS TO: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 138398 (Sub-No. 4 TA), filed January 3, 1974. Applicant: CHARTER EXPRESS, INC., 1959 East Turner, P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Warren H. Sapp, Suite 910 Fairfax Bldg., 101 West Eleventh Street, Kansas City, Mo. 64105. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Earthenware, from Aspers, Pa., to Hannibal, Kansas City, Sedalia, and Sweet Springs, Mo. under a continuing contract or contracts with Rival Manufacturing Company of Kansas City, Mo., for 180 days. SUPPORTING SHIPPER: Rival Manufacturing Co., 3600 Bennington, Kansas City, Mo. SEND PROTESTS TO: District Supervisor John V. Barry, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 139353 (Sub-No. 1 TA) (CORRECTION), filed January 3, 1974, published in the FEDERAL REGISTER Notice No. 6, dated January 15, 1974, and republished as corrected this issue. Applicant: DAVIE TRUCKERS, INC., Route 1, Advance, N.C. 27006. Applicant's representative: W. P. Sandridge, Jr., 2400 Wachovia Building, P.O. Drawer 84, Winston Salem, N.C. 27102.

NOTE.—The purpose of this partial republication is to show the correct MC number as No. MC 139353 (Sub-No. 1 TA), in lieu of No. MC 139388 TA, which was published in the FEDERAL REGISTER in error. The rest of the application will remain the same.

No. MC 139392 (Sub-No. 1 TA), filed January 11, 1974. Applicant: LAMBERT TRANSFER CO., INC., Ragland Road, P.O. Box 1438, Beckley, W. Va. 25801. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, W. Va. 25526. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Used household goods, between Beckley, W. Va., on the one hand, and, on the other, points in Barbour, Boone, Braxton, Cabell, Calhoun, Clay, Dodd-

ridge, Fayette, Gilmer, Greenbrier, Harrison, Jackson, Kanawha, Lewis, Lincoln, Logan, Mason, Mingo, Nicholas, Putnam, Pleasants, Pocahontas, Raleigh, Randolph, Ritchie, Roane, Tucker, Tyler, Upshur, Wayne, Webster, Wirt, Wood, and Wyoming Counties, W. Va., for 180 days. RESTRICTIONS: (1) Restricted to shipments having prior or subsequent movement in containers beyond the points authorized and (2) Said operations are restricted to the performance of pick up and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. SUPPORTING SHIPPER: Department of the Air Force, P.O. Box 17050, Lockbourne AFB, Columbus, Ohio 43217. Attention: Gary B. Zura, Contracting Officer. SEND PROTESTS TO: H. R. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3108 Federal Office Building, 500 Quarrier Street, Charleston, W. Va. 25301.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 74-2222 Filed 1-25-74; 8:45 am]

[Notice 10]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 21, 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 2202 (Sub-No. 456 TA), filed January 11, 1974. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Akron, Ohio 44309. Applicant's representative: William Slabaugh (same ad-

dress as above). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, Class A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), serving the Holiday Industrial Park, De Soto County, Miss., as an off-route point in connection with applicant's present regular route operations, for 180 days.

NOTE.—Applicant will tack with lead certificate MC 2202 and all subs thereto and will affect interchange at all points served.

SUPPORTING SHIPPER: Holiday Inns, Inc., 3796 Lamar Avenue, Memphis, Tenn. 38118. SEND PROTESTS TO: Franklin D. Bail, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 181 Federal Office Bldg., 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 30844 (Sub-No. 491 TA), filed January 11, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, P.O. Box 5000 (Box zip 50704), Waterloo, Iowa 50702. Applicant's representative: Paul Rhodes (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Footwear, from Morrow, Ga., to points in Arkansas, Iowa, Kansas, North Dakota, Louisiana, Minnesota, Missouri, Nebraska, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin, for 180 days. SUPPORTING SHIPPER: Meldisco Div., Melville Shoe Corp., 401 Hackensack Avenue, Hackensack, N.J. 07601. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 52704 (Sub-No. 111 TA) (CORRECTION), filed January 3, 1974, published in the FEDERAL REGISTER Notice No. 5, dated January 14, 1974, and republished as corrected this issue. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", Opelika Highway, Lafayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St. NW., Atlanta, Ga. 30309.

NOTE.—The purpose of this partial republication is to show the correct Sub number as No. MC 52704 (Sub-No. 111 TA), in lieu of No. MC 52704 (Sub-No. 11 TA), which was published in the FEDERAL REGISTER in error. The rest of the publication will remain the same.

No. MC 82079 (Sub-No. 36 TA), filed January 10, 1974. Applicant: KELLER TRANSFER LINE, INC., 1239 Randolph Avenue SW., Grand Rapids, Mich. 49507. Applicant's representative: J. M. Neath, 900 One Vandenburg Center, Grand Rapids, Mich. 49502. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen foods, in mechanically refrigerated equipment, from the facilities of Continental Freezers of Illinois, at Chicago, Ill., to various Michigan points,

with return of damaged or rejected merchandise, for 180 days. SUPPORTING SHIPPER: Continental Freezers of Illinois, 4220 South Kildare Blvd., Chicago, Ill. 60632. SEND PROTESTS TO: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 113475 (Sub-No. 20 TA), filed January 11, 1974. Applicant: RAWLINGS TRUCK LINE, INC., P.O. Box 831, Emporia, Va. 23847. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Logs of compressed wood, bark, or sawdust, from Plymouth, N.C., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Maine, Massachusetts, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia and returned shipments to Plymouth, N.C., for 180 days. SUPPORTING SHIPPER: Joseph Gendoes, Jr., Region Transportation Manager, Weyerhaeuser Company, Plymouth, N.C. SEND PROTESTS TO: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 10-502 Federal Bldg., Richmond, Va. 23240.

No. MC 114301 (Sub-No. 80 TA), filed January 14, 1974. Applicant: DELAWARE EXPRESS CO., a Corporation, P.O. Box 97, Elkton, Md. 21921. 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: Feed ingredients, from Freehold, N.J., to points in Maine, New Hampshire, New York, Vermont, Massachusetts, Connecticut, and Rhode Island, for 180 days. SUPPORTING SHIPPER: Mr. Patrick J. Carr, Secretary/Treasurer, Getkin Associates, Inc., 1701 Swede Road, Norristown, Pa. 19403. SEND PROTESTS TO: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814-B Federal Bldg., Baltimore, Md. 21201.

No. MC 119767 (Sub-No. 305 TA), filed January 10, 1974. Applicant: BEAVER TRANSPORT CO., a Corporation, Mail: P.O. Box 186, Box zip 53158, Pleasant Prairie, Wis., and Office: I-94 County Highway C, Bristol, Wis. 53104. Applicant's representative: Fred H. Figge (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs and non-edible foods when moving in vehicles equipped with mechanical refrigeration (except in bulk), from Terminal Ice & Cold Storage Company, Bettendorf, Iowa, to points in Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, and Wisconsin, for 180

days. SUPPORTING SHIPPER: Terminal Ice & Cold Storage Company, 1618 S.W. First Avenue, Portland, Oreg. 97201. SEND PROTESTS TO: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 124796 (Sub-No. 109 TA), filed January 10, 1974. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Avenue, P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: William J. Monheim (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Auto parts and accessories; automotive jacks; cranes (not self-propelled); hand, pneumatic, and electric tools; and advertising materials, premiums, racks, display cases, and signs moving with the above described commodities, for the account of Tenneco, Inc., from Aberdeen, Miss., to Seward, Nebr., for 180 days. RESTRICTION: The operations to be authorized are to be restricted against the transportation of commodities which by reason of size or weight require the use of special equipment, and are further restricted to a transportation service to be performed under a continuing contract, or contracts with Tenneco, Inc. SUPPORTING SHIPPER: Walker Manufacturing Co., Division of Tenneco, Inc., 1201 Michigan Blvd., Racine, Wis. 53402. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Bldg., 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 133549 (Sub-No. 3 TA) (CORRECTION), filed January 3, 1974, published in the FEDERAL REGISTER Notice No. 5, dated January 14, 1974, and republished as corrected this issue. Applicant: STANLEY L. VERVEN, 117 Fairview Drive, South Sioux City, Nebr. 68776. Applicant's representative: Steward A. Huff, 314 Security Bank Building, Sioux City, Iowa 51101.

NOTE.—The purpose of this partial republication is to show the correct MC number as No. MC 133549 (Sub-No. 3 TA), in lieu of No. MC 135549 (Sub-No. 3 TA), which was published in the FEDERAL REGISTER in error. The rest of the publication will remain the same.

No. MC 133975 (Sub-No. 3 TA), filed January 10, 1974. Applicant: FLAMINGO TRANSPORTATION, INC., 1801 SW. First Avenue, Ft. Lauderdale, Fla. 33315. Applicant's representative: Richard B. Austin, 214 Palm Coast II Building, 5255 NW. 87th Avenue, Miami, Fla. 33166. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except articles of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment and mobile homes), between points in Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River Counties, and

the City of Okeechobee and points within 5 miles of the City of Okeechobee, Fla., restricted to traffic having an immediately prior or subsequent handling by freight forwarders, for 180 days.

NOTE.—Applicant will tack with MC 133975 at Dade, Broward, and Palm Beach Counties, Fla.

SUPPORTING SHIPPER: Florida-Texas Freight, Inc., Post Office Box 206, Miami, Fla. 33148. SEND PROTESTS TO: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Palm Coast II Building, Suite 208, 5255 NW. 87th Avenue, Miami, Fla. 33166.

No. MC 139170 (Sub-No. 3 TA), filed January 11, 1974. Applicant: FRANK W. MADDEN COMPANY, 1288 East Archwood Avenue, Akron, Ohio 44306. Applicant's representative: James E. David, 611 West Market Street, Akron, Ohio 44303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Precast and prestressed concrete building components and accessory parts, from Summit County, Ohio, to Martinsburg, W. Va., for 180 days. SUPPORTING SHIPPER: F. C. E. Dilloin Precast Systems, Inc., 837 Seasons Road, Hudson Township, Summit County, Ohio. 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 139323 (Sub-No. 1 TA), filed January 10, 1974. Applicant: KARS TRANSPORT, INC., 666 NW. 20th Street, Miami, Fla. 33127. Applicant's representative: Richard B. Austin, 214 Palm Coast II Building, 5255 NW. 87th Avenue, Miami, Fla. 33166. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (excluding household goods, Class A and B explosives, articles of unusual value and articles by reason of size or weight which require unusual handling and articles in bulk), between points in Dade, Broward, and Palm Beach Counties, Fla., restricted to traffic having a prior or subsequent movement by rail or water, for 180 days. SUPPORTING SHIPPERS: (1) The Lefebvre Corp., doing business as Bee Jay Sales of Florida, Post Office Box 443, Miami, Fla. 33165; (2) SCOA Industries, 35 N. 4th St., Columbus, Ohio 43215; (3) Enco South and Originals, 290 NE. 183d St., Miami, Fla. 33162; (4) Jefferson Stores, Inc., 15800 NW. 13 Avenue, Miami, Fla.; and (5) Island Sun Co., Inc., 100 Bush St., San Francisco, Calif. 94104. SEND PROTESTS TO: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Palm Coast II Building, Suite 208, 5255 NW. 87th Avenue, Miami, Fla. 33166.

No. MC 139364 (Sub-No. 1 TA), filed January 10, 1974. Applicant: STANLEY E. DAVIDSON AND STANLEY E. DAVIDSON, JR., doing business as DAVIDSON PROP & TIMBER, Route No.

1, Freeport (Harrison County), Ohio. Applicant's representative: T. Carroll McCarthy, Jr., 307 Board of Trade Building, Wheeling, W. Va. 26003. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Rock dust or safety dust*, in bags (or anything made therefrom), by flat bed trailer (except commodities in bulk, or in tank vehicles), from Benwood, Marshall County, W. Va., to the Youghiogheny & Ohio Coal Co., Nelms No. 1 Mine at or near Cadiz, Ohio, and Nelms No. 2 Mine at or near Hopedale, Ohio, for 180 days. **SUPPORTING SHIPPERS:** The Youghiogheny & Ohio Coal Co., Third & Walnut St., Martins Ferry, Ohio 43935 and Benwood Limestone Company, Inc., P.O. Box 68, Benwood, W. Va. 26031. **SEND PROTESTS TO:** Joseph A. Niggemyer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 416 Old Post Office Building, Wheeling, W. Va. 26003.

No. MC 139410 (Sub-No. 1 TA), filed January 8, 1974. Applicant: MIKE PHILLIPS ENTERPRISES, INC., 301 South 3rd Street, Phoenix, Ariz. 85004. Applicant's representative: A. Michael Bernstein, 1327 United Bank Building, Phoenix, Ariz. 85012. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated beverages*, and *advertising material and display shelving* moving in connection therewith, from the plant site of Shasta Beverages at La Mirada, Calif., to points in Arizona and to Gallup, N. Mex.; and *pallets*, from Gallup, N. Mex., and points in Ariz., to the plantsite of Shasta Beverages at La Mirada, Calif., for 180 days. **SUPPORTING SHIPPER:** Shasta Beverages, 26901 Industrial Boulevard, Hayward, Calif. 94545. **SEND PROTESTS TO:** Andrew V. Baylor, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 3427 Federal Building, 230 N. First Avenue, Phoenix, Ariz. 85025.

No. MC 139411 (Sub-No. 1 TA), filed January 9, 1974. Applicant: SHANMAN TRANSPORTATION CORP., 1175 NE. 125th Street, North Miami, Fla. 33161. Applicant's representative: A. David Milner, 744 Broad Street, Room 2005, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from Westbury, N.Y., to points in Florida, Georgia, South Carolina, North Carolina, and Virginia, for 180 days. **SUPPORTING SHIPPER:** Allied Bakers Co., Inc., 437 Railroad Ave., Westbury, N.Y. 11590. **SEND PROTESTS TO:** Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Palm Coast II Building, Suite 208, 5255 NW. 87th Avenue, Miami, Fla. 33166.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-2223 Filed 1-25-74; 8:45 am]

[EX PARTE NO. 300]

MECHANICAL PROTECTIVE SERVICE, 1973

Increases in Charges

ORDER. At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 21st day of January, 1974.

It appearing, That, on October 1, 1973, the railroads in the eastern, southern, and western territories, and certain water and motor carriers having joint rates with those railroads, filed a petition requesting that the Commission (1) institute an investigation into the adequacy of mechanical protective service charges of all railroads in the United States; (2) make all common carriers by railroad within the United States respondents in such investigation; and (3) authorize, on an interim basis, on not less than 45-days' notice, increased charges for mechanical protective service of 30 percent on nonfrozen commodities and of 10 percent on frozen commodities by amendment of Section 7 of Perishable Protective Tariff 18, H.R. Brandl, Agent, ICC 37, as set forth in detail in Appendix II attached to the petition, subject to a refund provision; and (4) grant all relief necessary to publish the proposal;

It further appearing, That the petitioners will propose at a later date permanent increases in mechanical protective service charges on a selective basis, in lieu of those proposed on an interim basis, based on the completion, early in 1974, of a more detailed cost study with respect to individual commodities within the fresh perishable group;

It further appearing, That 12 verified statements were filed in support of the petition in accordance with prescribed procedures;

It further appearing, That, in response to the Commission's notice of October 5, 1973, 22 shippers filed replies, of which 19 support petitioners' request for interim increases and 4 originally opposed that request based primarily on the claimed failure of the petitioners to furnish total costs of mechanical protective service; and that 1 of those opposing shippers subsequently withdrew;

It further appearing, That those shippers filing replies herein also appeared in "Mechanical Protective Service of Perishables—Nationwide." 340 I.C.C. 470 (1972), wherein they opposed a proposal for increased charges for protective service, while here, for the most part, they support the proposal and approve publication of the interim increases; however, they suggest that a final determination should not be unduly delayed and recommend that a definite expiration date be required for the interim increases in order to encourage a final determination based upon the completed cost studies;

It further appearing, That the respondents indicate that the proposed interim increases conform to the criteria established in Ex Parte No. 280, "Special Procedures for Tariff Filings Under the Wage

and Price Stabilization Program," in that they are cost justified and do not reflect future inflationary expectations, they are less than the minimum required to assure continued adequate and safe service or to provide for necessary expansion to meet future requirements, they will achieve less than the minimum rates of return needed to attract capital at reasonable costs, and they give effect to all expected and obtainable productivity gains;

It further appearing, That the petitioners state that approval of the proposal would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

It further appearing, That the verified statements filed by the petitioners indicate that mechanical protective service is being furnished at large losses;

And it further appearing, That, in consideration of the evidence submitted, the petitioners should be authorized to publish the interim increases proposed, subject to protests and suspension and a refund rule; therefore;

It is ordered, That:

(1) An investigation be, and it is hereby, instituted into and concerning the adequacy of mechanical protective service charges for all common carriers by railroad in the United States, the said investigation to include the interim increases here proposed and the referred-to permanent increases proposed to be made subsequently on a selective basis.

(2) All such common carriers be, and they are hereby, made respondents to this proceeding.

(3) Any person or persons believing that the tariff proposal filed hereunder will have a significant effect upon the quality of the human environment are hereby invited to comment upon this matter in any statements that may be filed.

(4) In publishing the proposed interim charges, subject to protest and suspension, in accordance with the special permission authority hereinafter granted, the schedules shall become effective upon not less than 30-days' notice (in consideration of the fact that parties were afforded opportunity to reply, and of the almost unanimous support for the proposal), but not earlier than February 25, 1974, and not later than March 8, 1974, and shall include the specified refund provision.

(5) Replies heretofore filed will be considered as supporting statements or as protests and the parties may rely thereon; that verified statements of fact and argument in opposition to the schedules will be considered as protests and will also be made a part of the formal record, along with those filed by the respondents in support of the proposal and any other verified statements in support; and that unverified statements in support or in opposition will be considered only in connection with the issue of suspension. For the Commission's use, the original and

24 copies should be sent to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, but a lesser number of copies may be filed upon a showing of good cause. One copy of each document shall be served (except that where parties are able to do so, 25 copies should be served) upon the representative of the petitioning railroads, Mr. Harry L. DeLung, Jr., American Railroads Building, Room 527, 1920 L St., NW., Washington, D.C. 20036. A notice will be promptly issued after the schedules are filed indicating the published effective date. All statements in opposition shall be filed at least 12 days before the effective date of the schedules, and the railroads' replies thereto shall be due at least 5 days before the effective date of the schedules, and all statements shall contain a certification that proper service has been made.

(6) Inasmuch as the Commission shares the concern of the shippers herein involved as to any "undue delay," that the petitioners are hereby required and ordered to file their permanent schedules for increases in mechanical protective service charges on a selective basis on or before June 1, 1974, and at the same time they are required to furnish for all parties of record their final cost study (said to be available in the Spring of 1974), such permanent schedules to be subject to protest and possible suspension or rejection.

(7) The petition in all other respects be, and it is hereby, denied.

SPECIAL PERMISSION No. 74-2300

It is ordered. That, for good cause shown hereinabove, all railroads in eastern, southern, and western territories, and certain water and motor carriers having joint rates with the said railroads, be, and they are hereby, authorized to publish a supplement to their protective service tariff, No. 18, ICC 37, H. R. Brandl, Agent, providing increased charges for mechanical protective service on an interim basis, as set forth in their petition, of 30 percent on nonfrozen commodities and of 10 percent on frozen commodities, to become effective not earlier than February 25, 1974, and not later than March 8, 1974, upon statutory notice to the Commission and to the public.

It is further ordered. That the form and manner of the publication of the increases shall be that of a conversion-table supplement showing for each present effective rate or charge the corresponding increased rate or charge, which supplement shall (1) contain no matter not necessary for its application (2) be maintained as a separate supplement (in its original or amended reissued form) and (3) be considered exempt from the supplemental limits of Rule 9(e) of the Commission's Tariff Circular No. 20, and the terms of Rules 8(f) and 9(a) of said circular are hereby waived to permit its publication, its maintenance and reference thereto in subsequent supplements, all such rule relief to expire one year from effective date of these schedules.

It is further ordered. That publication

and filing of the conversion-table supplement naming interim increases on mechanical protective service, or any reissue thereof, shall include, and maintain in effect, a refund provision different from that normally imposed, reading as follows:

In the event no permanent increases are sought or where such increases are less than the increases resulting from the application of this supplement, the carriers will refund the interim increases or the difference in those increases, as the case may be, with interest at the rate of 4 percent per annum.

In the event any increases resulting from the application of this supplement exceed the increases subsequently approved or prescribed by the Interstate Commerce Commission, the carriers will refund the difference between the increases resulting from the application thereof and any increases which may subsequently be approved or prescribed by the Interstate Commerce Commission with 4-percent interest.

In the event any increases resulting from the application of this supplement are disapproved by the Commission and no increases are authorized, the carriers will refund the full amount of the increases collected with 4-percent interest.

The said supplements to be filed by the carriers shall bear an expiration date not beyond one year after the first published effective date, which date may not be canceled or extended except upon specific authorization of this Commission, and all relief herein expires with that date.

It is further ordered. That supplement(s) published hereunder shall bear the notation:

Form of publication authorized, I.C.C. permission No. 74-2300.

And it is further ordered. That notice of this order be given by serving a copy thereof on each party to the proceedings in Ex Parte No. 295 and Ex Parte No. 288, Increased Freight Rates and Charges, 1972, and Protective Service Charges, 1972, respectively, by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-2225 Filed 1-25-74;8:45 am]

[I.C.C. Order 115; Rev. S.O. 994]

SOUTHERN PACIFIC TRANSPORTATION CO.

Rerouting Traffic

JANUARY 23, 1974.

In the opinion of R. D. Pfahler, Agent, the Southern Pacific Transportation Company, is unable to transport traffic over its line between Small, California and Delta, California, because of track and bridge damage.

It is ordered. That:

(a) *Rerouting traffic.* The Southern Pacific Transportation Company, being unable to transport traffic over its line between Small, California and Delta, California, because of track and bridge damage, is hereby authorized to reroute

or divert such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 7:30 p.m., January 16, 1974.

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 25, 1974, unless otherwise modified, changed, or suspended.

It is further ordered. That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 16, 1974.

INTERSTATE COMMERCE
COMMISSION,

[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.74-2224 Filed 1-25-74;8:45 am]

[I.C.C. Order 116; Rev. S.O. 994]

ATCHISON, TOPEKA AND SANTA FE RAILWAY CO. AND ST. LOUIS SOUTHWESTERN RAILWAY CO.

Rerouting Traffic

JANUARY 23, 1974.

In the opinion of R. D. Pfahler, Agent, The Atchison, Topeka and Santa Fe

Railway Company and the St. Louis Southwestern Railway Company are unable to interchange traffic at McGregor, Texas, because of damage to the interchange track.

It is ordered, That:

(a) *Rerouting traffic.* The Atchison, Topeka and Santa Fe Railway Company and the St. Louis Southwestern Railway Company, be unable to interchange traffic at McGregor, Texas, these lines are hereby authorized to reroute or divert such traffic via any available route.

(b) *Non-application to embargoed traffic.* The provisions of this order shall not apply to traffic subject to an outstanding embargo ordered by the Interstate Commerce Commission.

(c) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(d) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(e) *Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.*

(f) *In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.*

(g) *Effective date.* This order shall become effective at 1:30 p.m., January 17, 1974.

(h) *Expiration date.* This order shall expire at 11:59 p.m., January 25, 1974, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 17, 1974.

INTERSTATE COMMERCE
COMMISSION,
R. D. PFAHLER,
Agent.

[FR Doc.74-2232 Filed 1-25-74; 8:45 pm]

[EX PARTE NO. 293]

NORTHEASTERN RAILROAD INVESTIGATION

Definition of the Midwest and Northeast Region

Order. At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 14th day of January, 1974.

The Regional Rail Reorganization Act of 1973, Pub. L. 93- (the "Act") contains various provisions designed to assure the preservation of rail services in the Midwest and Northeast region of the United States, and, in particular, it contains provisions for the restructuring of the rail services provided within that region by railroads in organization under section 77 of the Bankruptcy Act (11 U.S.C. 205). Section 102(13) of the Act defines the term "region" as follows:

"Region" means the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Michigan, and Illinois; the District of Columbia; and those portions of contiguous States in which

are located rail properties owned or operated by railroads doing business primarily in the aforementioned jurisdictions (as determined by the Commission by order).

From the declaration of purpose in the Act, intent of the Congress is clear that the entire systems of the railroads in reorganization in the region be taken into account in the design of a final system plan for rail service in the region. It is thus necessary that the region include points in States contiguous to those listed in section 102(13) in which are located properties of, or which are stations on, railroads in reorganization in the region. These points are St. Louis, Missouri, and Louisville, Kentucky, which are stations of the Penn Central Transportation Company, and Kewaunee and Manitowoc, Wisconsin, which are stations of the Ann Arbor Railroad Company (although served only by ferry). To carry out the stated purposes of the Act, it does not at this time appear necessary that the region encompass all points in States contiguous to the jurisdictions named in section 102(13) of the Act at which are located properties of railroads not in reorganization which do business primarily within those jurisdictions.

It is ordered, Therefore, that the term "region" as defined in section 102(13) of the Regional Rail Reorganization Act of 1973, PL 93- , include, in addition to the jurisdictions specifically named, the following:

Points in Kentucky in the Louisville, Kentucky, Standard Metropolitan Statistical Area as used in the latest national census; and

Points in Missouri in the St. Louis, Missouri, Standard Metropolitan Statistical Area as used in the latest national census; and Kewaunee and Manitowoc, Wisconsin.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary, Interstate Commerce Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

By the Commission.

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc.74-2230 Filed 1-25-74; 8:45 am]

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MONDAY, JANUARY 28, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 19

PART II



DEPARTMENT OF AGRICULTURE

Animal and Plant Health
Inspection Service

■

ANIMAL WELFARE

List of Registered Research Facilities

DEPARTMENT OF AGRICULTURE
Animal and Plant Health Inspection Service
ANIMAL WELFARE

List of Registered Research Facilities

Pursuant to the provisions of the Act of August 24, 1966, as amended by the Animal Welfare Act of 1970 (7 U.S.C. 2131 et seq.), and the regulations thereunder (9 CFR Part 2), notice is hereby given that the following research facilities are registered under said Act:

ALASKA

University of Alaska, College 99701

ALABAMA

Auburn University, Auburn 36830

Southern Research Institute
 2000 Ninth Avenue South, Birmingham
 32505

Tuskegee Institute
 Tuskegee Institute 36088

University of Alabama Medical Center
 1919 Seventh Avenue South, Birmingham
 35233

ARIZONA

Arizona State University, Animal Resource
 Center
 Room 236, Tempe 85281

Barrow Neurological Institute of St. Joseph's
 Hospital
 350 West Thomas Road, Phoenix 85013

Good Samaritan Hospital
 1033 East McDowell Road, Phoenix 85002

Northern Arizona University
 Flagstaff 86001

St. Joseph's Hospital and Medical Center
 350 W. Thomas Road, Phoenix 85113

University of Arizona
 Tucson 85721

ARKANSAS

Animal Behavior Enterprises, Inc.

Route 6, Box 368, Hot Springs 71901

University of Arkansas
 Fayetteville 72701

CALIFORNIA

Aerojet Medical & Biological Systems
 9200 East Flair Drive, El Monte 91734

Allergan Pharmaceuticals
 2525 Dupont Drive, Irvine 92664

Alpha Gamma Labs
 160 E. Montacito Avenue, Sierra Madre 91024

Alza Corporation
 950 Page Mill Road, Palo Alto 94304

Applied Biological Sciences Laboratory, Inc.
 6320 San Fernando Road, Glendale 91201

Attending Staff Association, Los Angeles
 County Harbor General Hospital

1000 West Carson Street, Torrance 90509

Attending Staff Association of the Rancho
 Los Amigos Hospital, Inc.

12826 Hawthorne Street, Downey 90242

Beckman Instruments, Inc., Diagnostics
 Operations

2041 E. Lambert Road, La Habra 90631

Bio-Science Laboratories
 7600 Tyrone Avenue, Van Nuys 91405

Biological Sonar Laboratory
 8100 Patterson Ranch Road, Fremont 94536

Bruce Lyon Memorial Research Laboratory
 51st and Grove Streets, Oakland 94609

California Institute of Technology
 1201 East California Boulevard, Pasadena
 91109

Cedars-Sinai Medical Research Institute
 8720 Beverly Boulevard, Los Angeles 90048

Children's Hospital of Los Angeles
 4650 Sunset Boulevard, Los Angeles 90027

Children's Hospital of San Francisco
 3700 California Street, San Francisco 94119

City of Hope Medical Center
 1500 East Duarte Road, Duarte 91010

Consumers River College
 8401 Center Parkway, Sacramento 95823

Cutter Laboratories, Inc.
 Fourth and Parker Streets, Berkeley 94710

The Epoxylite Corporation
 1428 North Tyler Avenue, South El Monte
 91733

Ershoff, Benjamin, Ph. D.
 9331 Venice Boulevard, Culver City 90230

Eskaton, dba American River Hospital
 4747 Engle Road, Carmichael 95608

The Hine Laboratories, Inc.
 1099 Folsom Street, San Francisco 94103

Hoag Memorial Hospital
 301 Newport Boulevard, Newport Beach 92660

Hollywood Presbyterian Hospital
 1322 North Vermont Avenue, Los Angeles
 90027

ICN-Nucleic Acid Research Institute
 2727 Campus Drive, Irvine 92664

Institute of Chemical Biology, University of
 San Francisco 94117

Institute of Medical Sciences
 2361 Clay Street, San Francisco 94115

Institute for Medical Research of Santa Clara
 County

751 South Bascom Avenue, San Jose 95128

International Medication Systems, Ltd.
 1886 Santa Anita Avenue, South El Monte
 91733

La Verne College Department of Biology
 1950 Third Street, La Verne 91750

Loma Linda University
 Loma Linda 92354

Los Angeles Pierce College
 6201 Winnetka Boulevard, Woodland Hills
 96413

Loyola University
 7101 W. 80th Street, Los Angeles 90045

McGaw Laboratories
 1015 Grandview Avenue, Glendale 91201

Medi-Physics, Inc.
 5855 Christie Avenue, Emeryville 94608

Memorial Hospital of Long Beach
 2801 Atlantic Avenue, Long Beach 90806

MGD Laboratories
 2795-A Delmonte Street, W. Sacramento
 95691

Mount Zion Hospital and Medical Center
 1600 Divisadero Street, San Francisco 94115

National Institute of Scientific Research
 12330 Santa Monica Boulevard, Newport
 Beach 92660

Nelson Research and Development Company
 19722 Jamboree Boulevard, Irvine 92664

Newport Pharmaceuticals International, Inc.
 1590 Monrovia Boulevard, Newport Beach
 92660

Nutrilite Products, Inc.
 19600 Sixth Street, Lakeview 92353

Olive View Hospital
 Olive View 91330

Palo Alto Medical Research Foundation
 860 Bryant Street, Palo Alto 94301

Pasadena Foundation for Medical Research
 99 North El Molino Avenue, Pasadena 91101

Pasadena Hospital Association, Ltd.
 734 Fairmount Avenue, Pasadena 91105

Pharmaseal Laboratories
 4401 Foxdale Avenue, Irwindale 91706

Pomona College
 Claremont 91711

Regents of the University of California
 University Hall, Berkeley 94720

Research and Education Foundation Medical
 Center

101 Manchester Avenue, Orange 92668

Research Foundation at St. Joseph Hospital
 in Burbank

Buena Vista At Alameda, Burbank 91503

Salk Institute for Biological Studies
 P.O. Box 1809, San Diego 92104

San Diego Bio-Medical Research Institute
 3585 Fourth Avenue, San Diego 92104

Sansum Clinic Research Foundation
 2219 Bath Street, Santa Barbara 93102

Scripps Clinic and Research Foundation
 476 Prospect Street, La Jolla 92037

Shell Development Co.,
 Post Office Box 4248, Modesto 95352

Sonoma State Hospital
 Eldridge 95431

St. Joseph's Hospital
 355 Buena Vista Avenue East, San Francisco
 94117

St. Jude Hospital and Rehabilitation Center
 101 East Valencia Mesa Drive, Fullerton 92632

St. Mary's Hospital and Medical Center
 220 Hayes Street, San Francisco 94117

Standard Oil Company of California
 576 Standard Avenue, Room 5201, Richmond
 94802

Stanford Research Institute
 333 Ravenswood Avenue, Menlo Park 94025

Stanford University
 Stanford 94305

Star-Kist Foods, Inc.
 582 Tuna Street, Terminal Island 90731

State of California Department of Public
 Health

2151 Berkeley Way, Berkeley 94704

Stauffer Chemical Company, Western Re-
 search Center

1200 South 47th Street, Richmond 94804

Sutter Community Hospitals of Sacramento
 2820 L. Street, Sacramento 95816

Syntax Corporation, Research Division
 3401 Hillview Avenue, Palo Alto 94304

Syva Company
 2349 Charleston Road, Mountain View 94040

Tera Pharmaceuticals, Inc.
 6920 Stanton Avenue, Buena Park 90621

University of Southern California
 University Park, Los Angeles 90033

University of the Pacific
 Pacific Avenue and Stadium Drive, Stockton
 95204

Valley Childrens Hospital and Guidance
 Clinic

3151 North Millbrook, Fresno 93703

White Memorial Medical Center
 1720 Brooklyn Avenue, Los Angeles 90033

Yuba College

Linda and Beale Roads, Marysville 95901

COLORADO

Arapahoe Community College
 5900 South Santa Fe Drive, Littleton 80120

Bel Rae Institute
 9870 East Alameda Avenue, Denver 80231

Children's Asthma Research Institute and
 Hospital

3401 West 19th Avenue, Denver 80204

The Colorado College
 Colorado Springs 80903

Colorado Mountain College
 Glenwood Springs 81601

Colorado Serum Co.
 4950 York Street, Denver 80216

Colorado State University, Fort Collins 80521

Community College of Denver, Auraria
 Campus
 1201 Acoma, Denver 80204

Community College of Denver, Red Rocks Campus
1209 Quail Street, Lakewood 80215
Community College of Denver
1001 East 62nd Avenue, Denver 80216
Department of Health and Hospitals
West 8th Avenue and Cherokee Street,
Denver 80204

Fort Lewis College, Biology Department
Durango 81301

Meridian Bio-Medical, Inc.
3278 South Wadsworth, Denver 80227

Otero Junior College
18th and Colorado Avenue, La Junta 81050

Penrose Hospital
2215 North Cascade Avenue, Colorado Springs, 80903

Regis College
West 50th and Lowell Boulevard, Denver, 80221

Saint Joseph Hospital
1835 Franklin Street, Denver 80218

University of Colorado, Boulder 80302

University of Northern Colorado, Greeley 80631

Western State College of Colorado
Gunnison 81230

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Bio-Medical Research, Incorporated
858 Oakwood Road, Orange 06477

Children's Museum of Hartford
950 Trout Brook Drive, West Hartford 06119

Connecticut State Department of Health
Post Office Box 1689, Hartford 06101

Fairfield University
Fairfield 06430

Hartford Hospital
80 Seymour Street, Hartford 06115

The Hospital of St. Raphael
1450 Chapel Street, New Haven 06511

The John B. Pierce Foundation of Connecticut, Inc.
290 Congress Avenue, New Haven 06519

New England Institute
90 Grove Street, Ridgefield 06877

The Norwalk Museum and Zoo
133 Lexington Avenue, Norwalk 06854

Quinnipiac College
555 New Road, Hamden 06518

Saint Francis Hospital
114 Woodland Street, Hartford 06105

Saint Mary's Hospital Surgical Laboratory
56 Franklin Street, Waterbury 06702

Stamford Museum and Nature Center, Inc.
39 Scofieldtown Road, Stamford 06903

The University of Connecticut, Storrs 06268

University of Hartford, 200 Bloomfield Avenue, West Hartford 06117

Yale University, School of Medicine
333 Cedar Street, New Haven 06510

DELAWARE

Alfred I. DuPont Institute
Rockland Road, Wilmington 19899

Atlas Chemical Industries, Inc.
Concord Pike and New Murphy Road,
Wilmington 19899

Du Pont Experimental Station
Building 328, Room B-33, Wilmington 19898

Haskell Laboratory for Toxicology and Industrial Medicine
Elkton Road, Newark 19711

Hercules, Inc., Hercules Agricultural Chemicals Laboratory
Wilmington 19899

Sterwin Laboratories, Inc.

Dupont Highway, Millsboro 19966

Stine Laboratory, E. I. Du Pont de Nemours and Co., Inc.

P.O. Box 30, Newark 19711

University of Delaware, Newark 19711
Wilmington Medical Center, Inc.
14th and Washington Streets, Wilmington 19899

DISTRICT OF COLUMBIA

The American University
Massachusetts and Nebraska Avenues, NW, 20016

Children's Hospital of the District of Columbia
2125 13th Street, NW., Washington 20009

Georgetown University, Animal Care Facility
3900 Reservoir Road, NW., Washington 20007

The George Washington University, Washington 20006

National Canners Association
1133 20th Street, NW., Washington 20036

Washington Hospital Center, George Hyman Memorial Research Building
110 Irving Street, NW., Washington 20010

FLORIDA

Cape Laboratories Corporation
Box B1, Venice 33595

Dawson Research Corporation
114 West Grant Avenue, Orlando 32806

Entomological Research Center
P.O. Box 520, Vero Beach 32960

Florida A & M University, Tallahassee 32307

Florida State University, Tallahassee 32306

Florida Technological University
P.O. Box 2500, Alafaya Trail, Orlando 32816

J. Hillis Miller Health Center and College of Medicine, Gainesville 32601

Miami Heart Institute, Adams Research Building
4701 N. Meridian Avenue, Miami Beach 33140

Mount Sinai Hospital, 4300 Alton Road, Miami Beach 33140

University of Florida, Institute of Food and Agriculture Sciences, Gainesville 32601

University of Florida, Gainesville 32601.

University of Southern Florida, Medical Center
4202 Fowler Avenue, Tampa 33620

University of Southern Florida, Science Center
801 First Street, South, St. Petersburg 33733

University of Miami, Coral Gables 33124

Sherwood Medical Industries, Inc.
Post Office Box 2078, DeLand 32720

GEORGIA

Emory University, Atlanta 30322

Medical College of Georgia, Augusta 30902

Mercer University, 223 Walton Street, N.W., Atlanta 30303

Palmer Chemical and Equipment Company, Inc.

Palmer Village, Post Office Box 867, Douglasville 30134

University of Georgia, Athens 30601

HAWAII

Kuakini Hospital and Home
347 North Kuakini Street, Honolulu 96817

Kuakini Medical Research Institute
347 North Kuakini Street, Honolulu 96817

Pacific Biomedical Research Center
University of Hawaii, Honolulu 96813

The Queen's Medical Center
P.O. Box 861, Honolulu 96808

Research Corporation of the University of Hawaii

1110 University Avenue, Honolulu 96814

St. Francis Hospital Research Laboratories
2260 Liliha Street, Honolulu 96817

IDAHO

Idaho State University, Pocatello 83201

University of Idaho, Moscow 83843

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Abbott Laboratories, 1400 Sheridan Road,
North Chicago 60064

American Dental Association
211 East Chicago Avenue, Chicago 60611

Argonne National Laboratory
9700 South Cass Avenue, Argonne 60439

Armour Pharmaceutical Company
P.O. Box 511, Kankakee 60901

Arnar-Stone Laboratories, Inc.
601 East Kensington Road, Mount Prospect 60056

Blackburn College, Carlinville 62626

Boebel, Dr. F. W., Sleepy Hollow Kennel and Cattery
Route 2, Box 73, Mundelein 60060

Bradley University, Peoria 61606

Chicago Board of Health
Chicago Civic Center, Chicago 60602

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1122 East 53rd Street, Chicago 60615

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710 South Wolcott Avenue, Chicago 60612

Children's Memorial Hospital
2300 Children's Plaza, Chicago 60614

College of DuPage
22 Lambert Road, Glen Ellyn 60137

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707 South Wood Street, Chicago 60612

Department of Mental Health
160 North LaSalle Street, Chicago 60601

Dyrkacz, Stanley, dba Herpetology Research Laboratory
5215 W. Rt. 120, McHenry 60050

Edgewater Hospital
5700 North Ashland, Chicago 60626

Elmhurst College, Elmhurst 60126

Eureka College
300 East College, Eureka 61530

Evanston Hospital
2650 Ridge Avenue, Evanston 60201

Galesburg State Research Hospital, Galesburg 61401

G. D. Searle and Company
Box 5110, Chicago 60680

General Foods Corporation, c/o Gaines Research Kennels
E. R. 3, St. Anne 60964

George Williams College
555 31st Street, Downers Grove 60515

John A. Hartford Foundation, Lutheran General Hospital
1775 Dempster, Park Ridge 60068

Hektoen Institute for Medical Research of the Cook County Hospital
627 South Wood Street, Chicago 60612

Illinois Benedictine College, Lisle 60532

Illinois Department of Public Health
535 West Jefferson Street, Springfield 62706

Illinois Institute of Technology
3300 South Federal Street, Chicago 60616

Illinois State University, Normal 61761

Illinois Wesleyan University, Bloomington 61701

Industrial Bio-Test Laboratories, Inc.
1810 Frontage Road, Northbrook 60062

ITT Research Institute
10 West 35th Street, Chicago 60616

Kendall Research Center
411 Lake Zurich Road, Barrington 60010

Kraftco Research Farm
Box 143, Danville 61832

Lake Forest College, Lake Forest 60045

Lincoln Land Community College
3865 South Sixth Street, Springfield 62703

Loyola University, Stritch School of Medicine
1400 South First Avenue, Hines 60141

Memorial Hospital
First and Miller Streets, Springfield 62701
Mercy Hospital and Medical Center
Stevenson Expressway at King Drive, Chicago 60616

Michael Reese Hospital and Medical Center
29th and Ellis, Chicago 60616

Mount Sinai Hospital Medical Center
California Avenue at 15th Street, Chicago 60608

Nelson M. Percy Medical Research Foundation
Augustana Hospital, 411 West Dickens, Chicago 60614

Northern Illinois University, De Kalb 60115
Northwestern University, Administration Building, Room 115
619 Clark Street, Evanston 60201
Peoria Municipal TB Sanitarium
P.O. Box 60, Peoria 61601

Presbyterian-St. Luke's Hospital, Animal Research Facility
1753 West Congress Parkway, Chicago 60612
Quincy College, Quincy 62301
Rosner-Hixson Laboratories, Division of Artnell Company, Inc.
7737 South Chicago Avenue, Chicago 60612
Saint Francis Hospital
530 NE. Glen Oak Avenue, Peoria 61603
Saint Francis Hospital, Surgical Research Department
355 Ridge Avenue, Evanston 60202
Saint John's Hospital Research Laboratories
1111 North Lincoln Street, Springfield 62707
Sangamon State University, Springfield 62703
Sherman Hospital
934 Center Street, Elgin 60120
Southern Illinois University, Carbondale 62901
Southern Illinois University, Edwardsville 62025

A. E. Staley Manufacturing Co.
P.O. Box 151, Decatur 62525

The Suburban Cook County TB Sanitarium District
55th and County Line Road, Hinsdale 60521
Thompson Research Foundation
Route 1, Box 97, Monee 60449
Travenol Laboratories, Inc.
6301 Lincoln Avenue, Morton Grove 60053
The University of Chicago
950 East 59th Street, Chicago 60637
The University of Illinois at Chicago Circle
2833 University Hall, Chicago 60680
University of Illinois at the Medical Center
833 South Wood Street, Chicago 60612
University of Illinois at Urbana-Champaign, Urbana 61801
Western Illinois University, Macomb 61455
West Laboratories
P.O. Box 666, St. Anne 60964
Wideman, Dr. Frederick E.
1520 7th Street, Suite 404, Moline 61265
Wilson and Co., Inc., Research and Technical Division
4200 South Marshfield Avenue, Chicago 60609
Wilson Laboratories
4221 South Western Boulevard, Chicago 60609

INDIANA

Ball State University
Cooper Life Science Building, Muncie 47306
Butler University
4600 Sunset, Indianapolis 46208
Central Soya Company, Inc.,
Research Feed Division, Decatur 46733
Eli Lilly and Company
740 South Alabama, Indianapolis 46206
George M. Haley, M.D., Inc.
220 Sherland Building, South Bend 46601

Indiana University
Bloomington 47401
Fort Wayne Surgical Associates, Inc.
3124 East State Boulevard, Fort Wayne 46805
Mead Johnson & Company
2404 Pennsylvania Avenue, Evansville 47721
Methodist Hospital of Indiana, Inc., Animal Research Facility
1604 North Capitol Avenue, Indianapolis 46202
Michigan Road Animal Hospital
7720 N. Michigan Road, Indianapolis 46268
Miles Laboratories, Inc., Therapeutics Research Laboratory
Elkhart 46514
Purdue University
Lafayette 47907
Rose Polytechnic Institute
5500 Wabash Avenue, Terre Haute 47803
University of Notre Dame, Lobund Laboratory
Notre Dame 46556
Valparaiso University
Department of Biology, Valparaiso 46383

IOWA

College of Osteopathic Medicine and Surgery
720 Sixth Avenue, Des Moines 50309
Diamond Laboratories, Inc.
P.O. Box 863, Des Moines 50311
Drake University
Des Moines 50311
Fort Dodge Laboratories, Inc.
800 Fifth Street Northwest, Fort Dodge 50501
Iowa State University
Ames 50010
The University of Iowa
Iowa City 52240
Viva Laboratories, Inc.
255 Elliott Street, Council Bluffs 51501

KANSAS

Biotec Laboratories, Inc.
9426 Rosehill Road, Lenexa 66215
Chemagro Corporation
Post Office Box 4913, Hawthorn Road, Kansas City 64120
Douglas Pharmacal Industries, Inc.
9900 Pflumm Road #32, Lenexa 66215
Haver-Lockhart Laboratories
Post Office Box 390, Shawnee Mission 66201
Kansas State University
Manhattan 66502
National Laboratories Corporation
12300 Santa Fe Drive, Lenexa 66215
Parsons State Hospital
Research Center, Parsons 67357
The University of Kansas
Lawrence 66044
University of Kansas Medical Center and School of Medicine
Rainbow Boulevard at 39th Street, Kansas City 66103

KENTUCKY

Harlan Appalachian Regional Hospital
Harlan 40831
University of Louisville School of Medicine
101 West Chestnut, Louisville 40202
University of Kentucky
Lexington 40506

LOUISIANA

Alton Ochsner Medical Foundation
1520 Jefferson Highway, New Orleans 70121
Gulf South Research Institute
8000 GSRI Avenue, Baton Rouge 70808
Louisiana State University System
Baton Rouge 70803
Louisiana Tech University
Ruston 71270

N.E. Louisiana University
40001 De Siard, Monroe 71201
Northwestern State University of Louisiana
Natchitoches 71457
Touro Research Institute
1400 Foucher Street, New Orleans 70115
Tulane University
New Orleans 70118
University of Southwestern Louisiana
USL Station, Lafayette 70501
Xavier University
Chemistry Department, New Orleans 70125

MAINE

Aqualand
R.D. 1, Route 3, Bar Harbor 04609
The Jackson Laboratory
Bar Harbor 04609
Maine Medical Center
22 Bramhall Street, Portland 04102
Nasson College
Springvale 04083
The President & Trustees of Bowdoin College
Brunswick 04011
University of Maine
Orono 04473
Westbrook College
716 Stevens Avenue, Portland 04103

MARYLAND

American Red Cross, Blood Research Laboratory
9312 Old Georgetown Road, Bethesda 20014
Baltimore City Hospitals
4940 Eastern Avenue, Baltimore 21224
Eastwal Research Laboratory
234 East 25th Street, Baltimore 21218
Eye Research Foundation of Bethesda
8710 Old Georgetown Road, Bethesda 20014
Flow Laboratories, Incorporated
12601 Twinbrook Parkway, Rockville 20852
Friends Medical Science Research Center, Inc.
52 Wade Avenue, Baltimore 21228
The Johns Hopkins University
34th and Charles Street, Baltimore 21218
Litton Bionetics, Inc.
7315 Wisconsin Avenue, Suite 400W, Bethesda, 20014
Mercy Hospital, Inc.
301 St. Paul Place, Baltimore 21201
Microbiological Associates, Inc.
4733 Bethesda Avenue, Bethesda 20014
Sacred Heart Hospital
900 Seton Drive, Cumberland 21502
Saint Joseph Hospital
7620 York Road, Baltimore 21204
Sinai Hospital of Baltimore, Inc.
Belvedere and Greenspring Avenues, Baltimore 21215
University of Maryland
Baltimore City Campus, Baltimore 21201
University of Maryland
College Park 20742

MASSACHUSETTS

Arthur D. Little, Inc.
25 Acorn Park, Cambridge 02140
Astra Pharmaceutical Products, Inc.
7 1/2 Neponset Street, Worcester 01606
Avco Everett Research Foundation
2385 Revere Beach Parkway, Everett 02149
Berkshire Community College
Second Street, Pittsfield 01201
Beth Israel Hospital Animal Unit
330 Brookline Avenue, Boston 02215
Bio-Research Institute, Inc.
9 Commercial Avenue, Cambridge 02141
Boston City Hospital, Department of Health and Hospitals
818 Harrison Avenue, Boston 02118

Boston College
140 Commonwealth Avenue, Chestnut Hill
02167

Boston State Hospital
591 Morton Street, Boston 02124

Boston University
705 Commonwealth Avenue, Boston 02118

Brandeis University
Waltham 02154

Cambridge Nuclear Radiopharmaceutical
Corp.

575 Middlesex Turnpike, Billerica 01821

The Children's Cancer Research Foundation
35 Binney Street, Boston 02115

Children's Hospital Medical Center
300 Longwood Avenue, Boston 02115

Children's Museum
Jamaica Way, Jamaica Plain 02130

Clark University
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Sacred Heart Hospital
4th and Chew Streets, Allentown 18102
Smith, Kline & French Laboratories
1500 Spring Garden Street, Philadelphia
19101

Susquehanna University
Susquehanna 17870
Syndot Laboratories
1075 New Dehaven Road, West Conshohocken
19428

Temple University of the Commonwealth
System of Higher Education
Broad and Montgomery Streets, Philadelphia
19122

University Health Center of Pittsburgh
Terrace and Desoto Streets, Pittsburgh 15213
University of Pennsylvania
101 College Hall, Philadelphia 19104

The Western Pennsylvania Hospital
4800 Friendship Avenue, Pittsburgh 15224
Westinghouse Electric Corporation
Research & Development Center, Beulah
Road, Churchill Borough, Pittsburgh 15235

Whitmoyer Laboratories, Inc.
19 North Railroad Street, Myerstown 17067
The Wistar Institute
36th and Spruce Streets, Philadelphia 19104

Wyeth Laboratories, Inc.
Post Office Box 8299, Philadelphia 19101

PUERTO RICO

University of Puerto Rico
Rio Piedras 00923

RHODE ISLAND

Brown University
79 Waterman Street, Brown Station, Providence
02912

The Memorial Hospital
Prospect Street, Pawtucket 02860

The Miriam Hospital
164 Summit Avenue, Providence 02906

Rhode Island College
Providence 02908

Rhode Island Hospital
593 Eddy Street, Providence 02903

Roger Williams College
Old Ferry Road, Bristol 02809

Roger Williams General Hospital
825 Chalkston Avenue, Providence 02908

University of Rhode Island
Kingston 02881

SOUTH CAROLINA

Clemson University
Clemson 29631

Medical College of South Carolina
80 Barre Street, Charleston 29401

Travenol Laboratories, Inc.
Kingstree 29556

SOUTH DAKOTA

South Dakota State University
Brookings 57006

University of South Dakota
Vermillion 57069

TENNESSEE

Baptist Memorial Hospital
899 Madison Avenue, Memphis 38103

Meharry Medical College
1005 18th Avenue, Nashville 37208

Memphis State University
Memphis 38111

Oak Ridge Associated University
Medical Division, P.O. Box 117, Oak Ridge
37830

George Peabody College for Teachers
Box 512, Nashville 37203

Plough, Inc.
3030 Jackson Avenue, Memphis 38112

The S. E. Massengill Company
501 Fifth Street, Bristol 37620

St. Jude Children's Research Hospital
P.O. Box 318, Memphis 38103

The University of Tennessee
Knoxville 37916

Vanderbilt University
Division of Animal Care, School of Medicine,
Station 17, Nashville 37203

TEXAS

Baylor College of Dentistry
800 Hall Street, Dallas 75235

Baylor University
Waco 76703

Callier Hearing and Speech Center
1966 Inwood Road, Dallas 75235

Robert O. Cone, Jr.
523 E. Court Street, Seguin 78155

Conrose Biologicals
523 E. Court Street, Seguin 78155

Helena Laboratories
1530 Lindbergh Drive, Beaumont 77704

Methodist Hospital of Dallas
P.O. Box 5999, Dallas 75222

Dr. David R. Redden
Box 5218, NT Station, Denton 76203

Rice University
P.O. Box 1892, Houston 77001

Southern Methodist University
Dallas 75222

Southwest Research Institute
8500 Culebra Road, San Antonio 78206

St. Joseph's Hospital
Surgical Res. Lab., 1919 LaBranch, Houston
77002

Texas Heart Institute
Houston 77002

Texas Woman's University
Box 23971, TWU Station, Denton 76204

Thuron Industries, Inc.
12200 Denton Drive, Dallas 75234

Trinity University
715 Stadium Drive, San Antonio 78212

The University of Texas System
P.O. Box 7969, Austin 78712

Wadley Institutes of Molecular Medicine
9000 Harry Hines, Dallas 75235

UTAH

Brigham Young University,
College of Biological and Agricultural Sciences,
106 Heber J. Grant Building, Provo 84601

EcoDynamics, Inc.
82 West Louise Avenue,
Salt Lake City 84115

Latter-day Saints Hospital
325 8th Avenue,
Salt Lake City 84103

Primary Children's Hospital
320 Twelfth Avenue,
Salt Lake City 84103

University of Utah
University Avenue at 2nd Street,
Salt Lake City 84112

Utah State University,
Logan 84321

VERMONT

Bennington College, Bennington 05201
Castleton State College, Castleton 05735

Lyndon State College, Lyndonville 05851
Middlebury College, Middlebury 05753

Putnam Memorial Hospital
Dewey Street, Bennington 05201
University of Vermont and State Agricultural
College
Burlington 05401

Windham College, Putney 05346

VIRGINIA

A. H. Robins Co., Incorporated, Research
Laboratories
1211 Sherwood Avenue, Richmond 23220

Bionetics Research Laboratories, Inc.
101 West Jefferson Street, Falls Church
22046

Blue Ridge Community College
P.O. Box 80, Weyers Cave 24486

College of William and Mary, Williamsburg
23185

Cook Engineering Company
900 Slaters Lane, Alexandria 22314

Hazleton Laboratories, Inc.
P.O. Box 30, Falls Church 22046

Lynchburg College, Lynchburg 24504
Medical College of Virginia, Animal Research
Division

12th and Broad Streets, Richmond 23219
Meloy Laboratories

6631 Iron Place, Springfield 22151
The Research Institute of the Norfolk Area,
Medical Center Authority

600 Gresham Drive, Norfolk 23507
University of Virginia, Charlottesville 22903

Virginia Polytechnic Institute, Blacksburg
24061

The Washington and Lee University, Lexing-
ton 24450

Weston Research Laboratories, Inc.
Route 1, Box 33, Purcellville 22132

Woodard Research Corp.
12310 Pinecrest Road, Herndon 22070

WASHINGTON

Department of Social and Health Services
1409 Smith Tower, Seattle 98104

Eastern Washington State College, Cheney
99004

Hollister-Stier Laboratories
Box 3145, Terminal Annex, Spokane 99220

Pacific Northwest Laboratories
P.O. Box 999, Richland 99352

Pacific Northwest Research Foundation
1102 Columbia Street, Seattle 98104

Providence Hospital
528 18th Avenue, Seattle 98122

Saint Joseph Hospital, Tacoma 98405
Seattle-King County Health Department
1303 Public Safety Building, Seattle 98104

Seattle University, Seattle 98122
Sweden Freezer Manufacturing Co.
3401 17th Avenue, West Seattle 98119

University of Washington, Seattle 98105
Virginia Mason Research Center
1000 Seneca Street, Seattle 98101

Washington State University, Laboratory,
Animal Units
Pullman 99163

Weyerhaeuser Company, Forestry Research
Center
P.O. Box 420, Centralia 98531

WEST VIRGINIA

West Virginia University
Morgantown 26506

WISCONSIN

Allen-Bradley Medical Science Laboratory
8700 W. Wisconsin Avenue, Milwaukee 53226

Altech Laboratories
P.O. Box 4186, Madison 53711

Appleton Memorial Hospital Association
1818 North Meade Street, Appleton 54911

Bellin Memorial Hospital
744 South Webster Avenue, Green Bay 54301
Beloit College
Beloit 53511
Bjorksten Research Foundation
Madison 53701
Central Wisconsin Colony and Training
School
317 Knutson Drive, Madison 53704
Colgate-Palmolive Company
Lakeside Laboratories Division, 1707 E.
North Avenue, Madison 53706
Columbia Hospital
3321 N. Maryland Avenue, Milwaukee 53211
Endocrine Laboratories of Madison, Inc.
P.O. Box 1436, 979 Jonathan Drive, Madison
53701
Fromm Laboratories, Inc.
Grafton 53024
Adolf Gundersen Medical Foundation
1836-1910 South Avenue, La Crosse 54601

Marshfield Clinic Foundation for Medical Re-
search and Education
630 S. Central Avenue, Marshfield 54449
Marquette University
615 North Eleventh Street, Milwaukee 53233
Medical College of Wisconsin
561 N. 15th Street, Milwaukee 53233
Mt. Sinai Hospital
May and Sigmund Winter Research Labora-
tory, 948 N. 12th Street, Milwaukee 53233
The Regents of the University of Wisconsin
750 University Avenue, Madison 53706
St. Luke's Research Foundation, Inc.
2900 W. Oklahoma Avenue, Milwaukee 53215
St. Mary's Hospital Medical Center
720 South Brooks Street, Madison 53715
St. Norbert College
De Pere 54115
Vocational, Technical and Adult Education
#4
211 North Carroll Street, Madison 53711
Warf Institute, Inc.
506 N. Walnut, P.O. Box 2599, Madison 53701

Wisconsin Department of Agriculture
Madison 53711

WYOMING

Casper College
125 College Drive, Casper 82601
Laramie County Community College
1400 East College Drive, Cheyenne 82001
The University of Wyoming
Laramie 82070

(Sec. 6, 60 Stat. 351, as amended, 84 Stat.
1561, 7 U.S.C. 2136; 37 FR 28477; 38 FR 19141,
9 CFR 2.127.)

Done at Washington, D.C., this 18th
day of January, 1974.

J. K. ATWELL,
*Acting Deputy Administrator,
Veterinary Services Animal
and Plant Health Inspection
Service.*

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MONDAY, JANUARY 28, 1974
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PART III



DEPARTMENT OF AGRICULTURE

Food and Nutrition Service



FOOD STAMP PROGRAM

Notice of Proposed Rulemaking

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR 270, 271, 272, 273, 274]

[Amdt. 19]

FOOD STAMP PROGRAM

Notice of Proposed Rulemaking

Pursuant to the authority contained in the Food Stamp Act of 1964 as amended (78 Stat. 703, as amended; 7 U.S.C. 2011-2025), notice is hereby given that the Food and Nutrition Service, Department of Agriculture intends to revise its regulations governing the operation of the Food Stamp Program for the purpose of incorporating amendments to the Food Stamp Act in Public Law 93-86, approved August 10, 1973; including revisions required by the Supreme Court decision holding that the "tax dependency" and "relatedness" provisions of the Food Stamp Act are unconstitutional; and making other necessary technical changes.

Interested persons may submit written comments, suggestions, or objections regarding the proposed amendments to James H. Kocher, Director, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received not later than February 27, 1974. Communications should identify the regulation, section and paragraph on which comments are offered. All comments, suggestions, or objections received by February 27, 1974 will be considered before the final regulations are issued.

Comments, suggestions or objections will be open to public inspection pursuant to 7 CFR 1.27(b) at the Office of the Director during regular business hours (8:30 a.m.-5 p.m.).

Parts 270, 271, 272, 273 and 274 of Chapter II, Title 7 CFR are amended as follows:

1. The part titles of Subchapter C are amended to delete the words "nonprofit" and "delivery" from "nonprofit meal delivery services" and, as amended, read as follows:

- Part
270 General information and definitions.
271 Participation of State agencies and eligible households.
272 Participation of retail food stores; wholesale food concerns, meal services and banks.
273 Administrative and judicial review—food retailers, food wholesalers and meal services.
274 Emergency food assistance for victims of disasters.

PART 270—GENERAL INFORMATION AND DEFINITIONS

2. In § 270.1, the third and fourth sentences of paragraph (b) are amended to delete the words "nonprofit" and "delivery" from the phrase "nonprofit meal delivery services" and read as follows:

§ 270.1 General purpose and scope.

(b) * * * Part 272 of this subchapter sets forth additional terms and conditions relating to the participation of re-

tail food stores, wholesale food concerns, meal services, and banks. Part 273 of this subchapter sets forth the procedure for an administrative and judicial review requested by food retailers, food wholesalers, and meal services. * * *

3. Section 270.2 is amended by deleting paragraphs (b), (q), (kk), and (rr). Paragraphs (c) through (m) are relettered (b) through (l) and newly designated paragraphs (d), (f), (g) and (j) are amended. New paragraphs (m) and (q) are added. Paragraphs (r), (s), (x) and (jj) are amended. New paragraphs (kk) and (ll) are added. Paragraphs (ll) through (qq) are relettered (mm) (rr). Paragraphs (ss), (tt), (ww) and (yy) are amended. The new and amended paragraphs of § 270.2 read as follows:

§ 270.2 Definitions.

(d) "Application form" means any one of FNS forms, "Retailer Application for Authorization to Participate in the Food Stamp Program," or "Nonprofit Meal Delivery Service Application for Authorization to Participate in the Food Stamp Program," or "Communal Dining Facility Application for Authorization to Participate in the Food Stamp Program," or "Drug Addiction or Alcoholic Treatment and Rehabilitation Program Application for Authorization to Participate in the Food Stamp Program," or "Wholesaler Application for Authorization to Participate in the Food Stamp Program," as required by the context.

(f) "Authorization" means the approval by FNS of retail food stores, meal services, and wholesale food concerns to participate in the program.

(g) "Authorization card" means the FNS form which evidences approval of a retail food store, a meal service, or a wholesale food concern to participate in the program.

(j) "Boarder" means an individual to whom a household furnishes meals, or lodging and meals, for compensation at a monthly rate at least equal to the value of the monthly coupon allotment for a one-person household.

(m) "Communal dining facility" means any facility such as senior citizens' centers, apartment buildings occupied primarily by elderly persons, any public or nonprofit private school which prepares meals especially for elderly persons, any public or nonprofit private eating establishment which prepares meals especially for elderly persons during special hours and any other public or nonprofit private establishment approved by FNS which prepares and serves meals and meets the requirements of § 272.1 of this chapter. It shall also mean a private establishment which is under contract with a State or local agency to offer, at concessional prices, meals prepared especially for elderly persons during regular or special hours and which meets the requirements of § 272.1 of this chapter.

(q) "Drug addiction or alcoholic treatment and rehabilitation program" means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private nonprofit organization or institution which is certified by the State agency or agencies designated by the Governor as responsible for the administration of the State's programs for alcoholics and drug addicts pursuant to Public Law 91-616, "Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act of 1970" and Public Law 92-255, "Drug Abuse Office and Treatment Act of 1972" as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics.

(r) "Elderly person" means a person 60 years of age or older who:

(1) Is not a resident of a boarding house or an institution;

(2) Is living alone or only with spouse, whether or not he has cooking facilities in his home;

(3) If he has no cooking facilities, is eligible for and elects to use coupons issued to him to purchase meals prepared for and delivered to him by a nonprofit meal delivery service authorized by FNS to accept food coupons or elects to use coupons to purchase meals prepared especially for the elderly at communal dining facilities authorized by FNS for such purpose.

(s) "Eligible food" means any food or food product for human consumption except alcoholic beverages and tobacco and also includes seeds and plants for use in gardens to produce food for the personal consumption of the eligible household. It shall also mean meals prepared and delivered by an authorized nonprofit meal delivery service or served by a communal dining facility for the elderly to elderly persons and their spouses and to households eligible under § 271.3(a)(2) of this chapter; and meals prepared and served by an authorized drug addiction and alcoholic treatment and rehabilitation program to households eligible under § 271.3(a)(4).

(x) "Firm" means as the context may require, a retail food store or a wholesale food concern or meal service.

(jj) "Household" means a group of persons excluding roomers, boarders and live-in-attendants necessary for medical, housekeeping or child care reasons, who are not residents of an institution or boarding house, and who are living as one economic unit sharing common cooking facilities and for whom food is customarily purchased in common: *Provided*, That residents of federally subsidized housing for the elderly, built under either Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act, or any narcotics addict or alcoholic meeting the criteria in paragraph (jj)(3) of this section, shall not be considered residents of an institution or boarding house. It shall also mean (1) a single individual living alone who purchases and prepares food for home con-

sumption, (2) an elderly person as defined in this section and his spouse, or (3) a narcotics addict or alcoholic who resides at a facility or treatment center under the supervision of a private non-profit organization or institution for the purpose of regular participation in a drug or alcoholic treatment and rehabilitation program, provided that such person must have access to individual or shared cooking facilities or the program in which he is participating has been authorized by FNS to accept food coupons.

(kk) "Hunting and fishing equipment" means equipment for the purpose of procuring food for the eligible household including nets, fish lines, fish hooks, fishing rods, dip nets, harpoons, hunting knives, gasoline for outboard motors and snowmobiles, tents, foul weather winter clothing and other equipment necessary for subsistence hunting and fishing in areas of Alaska as specified in § 271.3(a)(5); it does not include firearms, ammunition and other explosives.

(ll) "Meal service" means an organization which prepares and serves meals and meets the requirements of § 272.1 of this chapter including nonprofit meal delivery services, communal dining facilities for the elderly and drug addiction and alcoholic treatment and rehabilitation programs.

(mm) "Retail Food Store" means an establishment, including a recognized department thereof, or a house-to-house trade route which sells staple foods to households for home consumption.

(nn) "Roomer" means an individual to whom a household furnishes lodging for compensation.

(oo) "State issuing agency" means another agency of the State government or contractual agent of the State agency to which the State agency delegates its administrative responsibilities in connection with the issuance of coupons.

(pp) "Wholesale food concern" means an establishment which sells eligible food to retail food stores or meal services for resale to households.

4. In § 270.3, paragraph (b) is amended and a new paragraph (c) is added to read as follows:

§ 270.3 Administration.

(b) The State agency shall, except as provided in this subchapter, be responsible for the administration of the program within the State, including, but not limited to, the certification of applicant households; the acceptance, storage, and protection of coupons after their delivery to receiving points within the State; outreach to potentially eligible households; and the issuance of coupons to eligible households and the control and accountability therefor: *Provided*, That the State agency may, subject to State law, and under agreement or contract, delegate its administrative responsibility in connection with

the issuance of coupons to a State issuing agency. If such administrative responsibility is delegated as permitted by this section the State issuing agency shall administer the applicable provisions of this subchapter under the direction of the State agency. However, the State agency shall be responsible to the Department for carrying out the delegated responsibilities and for paying any claims arising out of any failure of the State issuing agency to carry out such delegated responsibilities.

(c) Except as provided in Part 274 of this chapter, only employees of the State agency meeting the requirements of § 271.1(g) may perform the interviews required in § 271.4(a)(2)(ii) of applicants for food stamp eligibility. This precludes the use of individuals, organizations or the facilities thereof of parties engaged in a dispute, the economic consequences of which result in households meeting the eligibility requirements for food stamp participation. Only authorized employees of the State agency or a State issuing agency shall be permitted access to food coupons, ATP cards or other issuance documents.

5. Section 270.4 is amended by deleting the last sentence of paragraph (c) and adding a new paragraph (d). As amended, § 270.4 reads as follows:

§ 270.4 Coupons as obligations of the United States, crimes and offenses.

(c) All individuals, partnerships, corporations, or other legal entities including States agencies and their delegates (referred to in this paragraph as "persons") having custody, care and control of coupons and ATP cards shall at all times, in receiving, storing, transmitting, or otherwise handling coupons and ATP cards, take all precautions necessary to avoid acceptance, transfer, negotiation, or use of spurious, altered, or counterfeit coupons and ATP cards and to avoid any unauthorized transfer, negotiation, or use of coupons and ATP cards. Such persons shall also safeguard coupons and ATP cards from theft, embezzlement, loss, damage, or destruction.

(d) Any false statement made by any person, in any application or certification required by this subchapter, by the Plan of Operation of any State agency, or by instructions of FNS, any failure to report changes in income or household circumstances which affect participation in the program except as specified in § 271.3(a)(1), or any fraudulent acquisition, transfer, use, or alteration of Form FNS-286, Certification of Household Transfer, may subject such person to criminal prosecution under any applicable provision of Federal law or to civil liability under the provisions of 31 U.S.C. 231 or either, or both, as well as to any legal sanctions as may be maintained under State law.

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

6. In § 271.1, paragraphs (e), (m), (n), the second sentence of paragraph (o) (4)

(i), paragraphs (o) (5) and (6) and paragraph (s) are amended to read as follows:

§ 271.1 General terms and conditions for State agencies.

(e) *Residency and citizenship.* No durational residency requirement shall be imposed as a condition of eligibility by any State or project area. However, each State agency shall prohibit participation in the program by any individual who is not a resident of the United States, and who is not either (1) a citizen or (2) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act).

(m) *Retention of records.* (1) Each State agency shall provide that all program records be retained in an orderly fashion for audit review purposes for a period of three years from the month of origin of each such record. Information from executed ATPs may be retained in any one of the following three methods:

(i) The ATPs may be retained in serial or case number order for a period of three years following the month of origin.

(ii) The ATPs may be destroyed after a period of one year provided the reconciliation required by § 271.6(f) has been completed, and provided a listing containing the case name, number, and address; ATP serial number; purchase requirement paid and total value of coupons issued is available for review and audit by USDA for three years following the month of origin of the ATPs so listed.

(iii) The ATPs may be destroyed after having been microfilmed front and back in ATP or case number order provided the reconciliation required by § 271.6(f) has been completed and provided the microfilm is available for review and audit by USDA for a period of three years following the month of origin.

(2) Where ADP systems are used to prepare and reconcile ATPs, all pertinent records related to the preparation and reconciliation of ATPs shall be retained and made available for review and audit by FNS for a period of three years. No ATPs or other program records shall be destroyed when the State agency has been instructed in writing by FNS or the Department to retain the documents.

(n) *Notice of adverse action.* (1) When the State agency takes action to reduce or terminate a household's program benefits within the certification period, advance notice shall be sent to the household at least 10 days before the date the proposed action will become effective. The notice shall explain in detail the reasons for the proposed action, the household's right to request a hearing and the circumstances under which pro-

gram participation is continued if a hearing is requested, and indicate the State agency's willingness to schedule a conference if the household wishes to discuss the action.

(2) Notice of adverse action is not required when:

(i) Mass changes in benefits are required for certain classes of households because of changes required by Federal or State law or Federal Regulation affecting the basis of issuance tables, income standards, or other eligibility criteria. Such changes may include, but are not limited to, maximum income limitations and basis of issuance tables prescribed in the general notice published in the FEDERAL REGISTER pursuant to § 271.5, changes in social security grants or public assistance payments;

(ii) The State agency receives a written statement from the head of the household or his authorized representative that food stamp assistance is no longer desired or that supplies information that requires the reduction or termination of benefits and the recipient acknowledges in writing that he knows the required action will be taken;

(iii) The State agency receives notification of the death of a single person household;

(iv) The State agency receives notification that the household has moved from the project area; or

(v) The action is taken as a result of the normal expiration of the certification period as provided for in § 271.4(a)(3).

(o) *Fair Hearing.* * * *

(4)(i) The hearing authority shall render a final administrative decision in the name of the Agency on all issues that have been the subject of the hearing. Decisions of the hearing authority shall not run counter to Federal law, regulations or policy and shall be based exclusively on evidence and other material introduced at the hearing. * * *

(5) If a hearing request is made during the 10-day advance notice period, provided for in paragraph (n) of this section, and the issue is solely one of fact or judgment, participation shall be continued on the basis existing immediately prior to the notice of adverse action until the hearing decision is rendered.

(6) If such a hearing request is made after such 10-day advance notice period has expired, and the issue is solely one of fact or judgment, the Agency may, to the extent practicable, provide for reinstatement of participation on the basis existing immediately prior to the notice of adverse action until the hearing decision is rendered.

(s) *Implementation.* Each State agency shall (1) Put into effect for all households the coupon allotments, purchase requirements and household income eligibility standards contained in revise FSP notices which are issued pursuant to a part of this subchapter on the effective date prescribed in each such notice.

(2) With respect to any amendment to this subchapter (other than provided

in paragraph (s)(1)) of this section which relates directly to the certification of households by the State agency, put such amendment into effect for all new applications and household recertifications not later than 60 days after the effective date of such amendment, and for all other households not later than 120 days after such date, unless otherwise provided in such amendment.

(3) With respect to any other amendment to this subchapter, implementation shall be effected as prescribed in each such amendment.

(4) Except for paragraph(s) (1) of this section the time limitations may be extended by FNS upon written request and justification by a State agency.

7. Section 271.3 is amended to revise paragraphs (a), (a)(1), (a)(2) and add new paragraphs (a)(3), (4) and (5). Paragraph (c)(1)(i) is amended to delete subdivision (e), to reletter all subdivisions subsequent to (d) and add a new subdivision (m). Paragraph (c)(1)(ii)(c) is amended. In paragraph (c)(1)(iii), subdivisions (e) and (g) are amended. In paragraph (c)(2), subdivisions (i) and (ii) are amended. Paragraph (c)(3) is amended. Paragraph (c)(4)(ii) is amended. In paragraph (c)(4)(iii), subdivisions (a), (b) and (c) are amended and a new subdivision (e) is added. Paragraph (d) is deleted. Paragraph (e) is amended and redesignated as paragraph (d); in paragraph (d)(1), a new subdivision (v) is added; paragraph (d)(4) is amended; paragraph (d)(5)(iii) is deleted and paragraph (d)(5)(iv) is redesignated as paragraph (d)(5)(iii); a new paragraph (d)(6) is added and all subsequent subparagraphs are renumbered. As amended § 271.3 reads as follows:

§ 271.3 Household eligibility.

(a) *Household.* Eligibility for and participation in the program shall be on a household basis.

(1) Eligibility shall be denied or terminated if the applicant household refuses to cooperate in providing information necessary for making a determination or redetermination of eligibility or ineligibility. After such termination or denial the household must cooperate in securing full verification prior to any subsequent certification. Applicants must assure that all statements made on the application are correct and complete. Households shall promptly report or cause to be reported to the State agency changes in income of \$10 or more, changes in deductible expenses of \$10 or more, and changes in any other household circumstances which occur during the certification period.

(2) Eligible household members 60 years of age or older who are housebound, feeble, physically handicapped or otherwise disabled to the extent that they are unable to adequately prepare all their meals, an elderly person as defined in § 270.2(r) of this subchapter, who is housebound, feeble, physically handicapped or otherwise disabled to the extent that he cannot adequately prepare all of his meals and the spouse of such an

elderly person may use all or any part of the coupons issued to them to purchase meals prepared for and delivered to them by a nonprofit meal delivery service authorized by FNS.

(3) Eligible household members 60 years of age or older, or elderly persons as defined in § 270.2(r) of this subchapter and the spouse of such an elderly person may use all or any part of the coupons to purchase meals prepared especially for them at communal dining facilities authorized by FNS for such purpose.

(4) Members of eligible households who are narcotics addicts or alcoholics and who regularly participate in a drug or alcoholic treatment and rehabilitation program on a nonresident basis, or households which are participating as residents of a facility or treatment center may elect to use all or any part of coupons issued to them to purchase food prepared for or served to them during the course of such program by a private nonprofit organization or institution authorized by FNS.

(5) Eligible households in Alaska residing in areas determined by FNS as areas where access to retail food stores is difficult and who rely substantially on hunting and fishing for subsistence, may use food coupons to purchase hunting and fishing equipment excluding firearms, ammunition and other explosives.

* * * * *

(c) *Income and resource eligibility standards of other households.*

(1) *Definition of income* * * *

(i) Income shall mean any of the following, but not be limited to:

(e) [Deleted]

* * * * *

(m) The actual value of housing received from an employer by members of a household as income in kind, in lieu of or supplemental to household income, not to exceed \$25.00 per month. No value is to be assigned to housing received as payment in kind which has been condemned or declared substandard under Federal, State, or local housing codes.

(ii) The following shall not be considered income to the household:

* * * * *

(c) Any gain or benefit which is not in money (except as provided in paragraph (c)(1)(i)(m) of this section).

* * * * *

(iii) Deductions for the following household expenses shall be made:

* * * * *

(e) Educational expenses which are for tuition and mandatory school fees. This includes those tuition and mandatory school fees which are covered by scholarships, educational grants, loans, fellowships, and veterans' educational benefits;

* * * * *

(g) Shelter costs in excess of 30 percent of the household's income after the above deductions. The State agency may develop, subject to FNS approval, standard utility allowances for use in calculating shelter costs: *Provided*, That the

State's quality control system is fully implemented and the State agrees to:

(1) Continue to verify actual utility costs through the quality control sample and to semiannually check the schedule of allowances for accuracy against these utility costs; and

(2) Make appropriate adjustments in the schedules, if necessary, no later than January 1 and July 1 of each year to reflect deviations revealed by the quality control six-month sample and/or utility price changes.

(2) *Handling of income.* (i) To determine the eligibility and basis of issuance of households, income and deductions may be averaged over the appropriate certification period.

(ii) To determine the basis of issuance for households whose primary source of income is from self-employment (including self-employed farmers) or regular farm employment, with the same employer income may be averaged evenly or prorated unevenly over the certification period not to exceed one year.

(3) *Income standards.* Uniform national income standards of eligibility for participation of nonassistance households in the program shall be the higher of: (i) The income poverty guidelines issued by the Secretary of Agriculture based on the statistics on poverty levels reported by the Census Bureau's Current Population Reports; or (ii) The level at which the total coupon allotment equals 30 percent of income. These income standards for each nonassistance household size will be prescribed in General Notices published in the FEDERAL REGISTER.

(4) *Resource definition and standards* * * *

(ii) *Included in resources.* In determining the resources of a household, the following shall be included and identified in sufficient detail to permit verification: * * *

(iii) *Exclusions from resources* * * *

(a) The home, one licensed automobile or other vehicle, household goods, cash value of life insurance policies and pension funds and personal effects.

(b) Income-producing property which is producing income consistent with its fair market value, or other property such as another vehicle needed for purposes of employment, the tools of a tradesman or the machinery of a farmer, deemed essential to the employment of a household member.

(c) The total resources of a roomer or boarder;

(e) Resources whose cash value is not accessible to the household, such as, irrevocable trust funds and property in probate.

(d) *Work registration requirement.* At the time of application and at least once every six months thereafter, each able-bodied person between the ages of 18 and 65, who is a member of a household, including a person who is not working

because of a strike or lockout at his place of employment (except mothers or other members of the household who have responsibility for the care of dependent children under 18 years of age or of incapacitated adults; students enrolled at least half-time in any school or training program recognized by any Federal, State, or local governmental agency; or persons working at least 30 hours per week), shall register for employment by executing the registration form which shall be provided by the State agency, and which the State agency shall forward to the State or Federal employment office having jurisdiction over the area where the registrant resides: *Provided*, That any narcotics addict or alcoholic who regularly participates as a resident or nonresident in a drug or alcoholic treatment and rehabilitation program shall not be considered "able-bodied" for the purposes of this section. For the purposes of this paragraph (d), the term "strike" shall not include a strike which has pursuant to a decision currently in force of a court or agency of competent jurisdiction been determined to be unlawful.

(1) Such member who is required to register shall also:

(v) Continue suitable employment to which he was referred by such office.

(4) No household shall be denied participation in the program solely on the grounds that a member of the household is not working because of a strike or a lockout at his place of employment.

(5) Any employment offered a particular registrant shall be considered suitable unless he can demonstrate that:

(i) The degree of risk to his health and safety is unreasonable;

(ii) He is physically or mentally unfit to perform the employment, as established by documentary medical evidence or reliable information from other sources;

(iii) The distance of the employment from his residence is unreasonable. Determinations in this connection shall be based upon estimates of the time required for going to and from work by means of transportation that is available or expected to be used, and whether or not it would be reasonable for the registrant to expend the time and cost involved for the expected remuneration from the work. In no event shall commuting time per day represent more than 25 percent of the registrant's total work time.

(6) Registration for participation in the Work Incentive Program (WIN) by members of a household who are required to register for work as stipulated above shall be regarded by FNS as having fulfilled the requirements of this section.

8. Section 271.4(a) (4), (a) (4) (iii), (a) (6) and (a) (7) are revised to read as follows:

§ 271.4 Certification of households.

(a) *Household certification* * * *

(4) *Certification periods.* The State agency shall assign certification periods as indicated below. At the end of each such period eligibility will terminate. Recertifications will be determined based on a newly completed application, interview, and verification.

(iii) Other households shall be assigned certification periods based on predictability of income and stability of household circumstances. Households shall be certified for 3 months except as follows:

(a) Households may be certified for less than 3 months when there is a possibility of frequent changes in income and household status, for example, day laborers and migrant workers during the work season.

(b) Households may be certified for 6 months if there is little likelihood of changes in income and household status.

(c) Households consisting of unemployable persons with very stable income may be certified for 12 months, provided other household circumstances are expected to remain stable, for example, social security recipients, and persons who receive pensions or disability payments.

(d) Households whose primary source of income is from self-employment (including self-employed farmers) or regular farm employment with the same employer may be certified for 12 months, provided income can be readily predicted and household circumstances are not likely to change. This determination is made in light of the ability of the worker who is regularly employed by the same employer (as opposed to the worker who has a number of employers during a period of time) to control the flow of income either jointly with the employer through prior arrangement or individually through "furnish".

(6) *Certification continuation.* The State agency shall provide for continuing the certification for 60 days after the date of the move of any household which moves from one project area to another: *Provided*, That (i) the household membership does not change; (ii) the household continues to meet the definition of a household as provided in § 270.2(jj) of this subchapter; and (iii) the household was not certified under disaster eligibility standards as provided in Part 274 of this subchapter. The project area from which the household is moving shall prepare the documents to transfer certification. The project area to which the household moves shall accept the transfer document and promptly issue coupons to the household in the amount authorized on the transfer document. After the expiration of the 60-day certification period provided for in this subparagraph, the household shall be recertified in accordance with usual procedures as prescribed in this part. The State agency shall provide for the secure storage of Form FNS-286, Certification of Household Transfer, and shall maintain con-

trols to prevent or detect unauthorized acquisition, acceptance, use, transfer or alteration of this form.

(7) *Identification card.* The State agency shall provide for issuance of an identification card to each household certified as eligible to participate in the program. Identification cards indicating special eligibility shall be issued to the following groups:

(i) Households and elderly persons and their spouses eligible for and desiring to use coupons to purchase meals from a nonprofit meal delivery service; and

(ii) Households residing in remote sections of Alaska that have been determined by FNS as areas in which food coupons may be used to purchase hunting and fishing equipment (except firearms, ammunition and other explosives).

9. In § 271.6, the introductory portion of paragraph (d), paragraphs (d) (2), (d) (4) and (f) are revised to read as follows:

§ 271.6 Methods of distributing, issuing, and accounting for coupons and receipts.

(d) The State agency or the State issuing agency shall arrange for the issuance of coupons to eligible households and for the collection of sums required from eligible households for the purchase requirement. The coupon allotment to be issued to any household, shall be in the amount determined in accordance with § 271.5.

(2) The State agency shall permit as soon as possible but no later than July 1, 1974, any household participating in the program, if it so elects, to have the cost of its full monthly coupon allotment deducted from any grant or payment such household may be entitled to receive under Title IV of the Social Security Act, and have its full monthly coupon allotment distributed to it.

(4) The State agency shall insure that eligible households are offered the frequency of coupon issuance that is best geared to the frequency of their receipt of income: *Provided*, That at a minimum, all project areas shall make provision for a monthly and semimonthly schedule of issuance; And *provided further*, That, the State agency shall insure that each eligible household is offered the option at the time of certification of choosing to receive coupons on a semimonthly basis.

(f) The State agency shall arrange for the reconciliation of coupon inventories, coupon issuances, sums collected from eligible households, vouchers, warrants accepted from public or private agencies, and other receipts. All such receipts shall be safeguarded at all times and promptly deposited. In any issuance system utilizing ATP cards, coupon issuances shall further be reconciled to the master file of certified eligible households.

10. In § 271.7, paragraphs (a) and (c) are revised to read as follows:

§ 271.7 Financial liabilities of the State agency.

(a) If FNS determines that there has been gross negligence or fraud on the part of the State agency in the initial certification of applicant households, the recertification of households, or the issuance of coupons, the State shall, on demand by FNS, pay to FNS a sum equal to the amount of any free coupons issued as a result of such negligence or fraud. Gross negligence shall include, those State agency actions in connection with certification and coupon issuance which are in substantial noncompliance with the provisions of this subchapter and which result in a loss of Federal funds. It shall also include those State agency actions with respect to which the State agency has previously been admonished by FNS and in which losses of Federal funds continue to occur.

(c) The State agency shall be liable to FNS for any overissuance of coupons or undercollections of cash as a result of mathematical or changemaking errors by personnel of any issuing office. The State agency shall also be liable to FNS for the bonus value of all coupons purchased through the use of documents which are stolen or embezzled from or lost by the State agency.

11. In § 271.9, paragraphs (a), (b) and (c) are revised to read as follows:

§ 271.9 Use or redemption of coupons by eligible households.

(a) The head of the eligible household or his authorized representatives shall sign each book of coupons provided to the head of the household or his authorized representative. The coupons may be used only by the head of the household or other persons selected by him to purchase eligible food for the household, except that eligible households residing in certain designated areas of the State of Alaska may purchase with their food coupons hunting and fishing equipment. Coupons may not be used to pay for deposits on bottles or other returnable food containers. Uncancelled and unendorsed coupons of 50-cent denomination returned as change by authorized retail food stores or meal services may be presented as payment for eligible food purchased in or delivered by an authorized retail food store or prepared and served by a meal service. All other coupons which have been detached from the coupon book prior to the time of purchase or delivery of eligible food may be presented as payment for eligible food purchased in or delivered by an authorized retail food store or meal service only if the coupons are accompanied by the coupon book which bear the same serial numbers as the detached coupons. It is the right of the head of the household or his authorized representative to detach the coupons from the book.

(b) Upon request, the head of the eligible household or his selected representative shall present the identification card of the head of the household to the retail food store or meal service when exchanging food coupons for eligible food.

(c) Coupons shall not be used to pay for any eligible food purchased prior to the time at which the coupons are presented to authorized retail food stores or meal services.

PART 272—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS, MEAL SERVICES, AND BANKS

12. The section titles of this part are amended to delete the words "nonprofit" and "delivery" from the phrase "nonprofit meal delivery services" and read as follows:

272.1 Approval of retail food stores, wholesale food concerns, and meal services.

272.2 Participation of retail food stores and meal services.

272.3 Participation of wholesale food concerns.

272.4 Procedure for redeeming coupons.

272.5 Participation of banks.

272.6 Disqualification of retail food stores, wholesale food concerns, and meal services.

272.7 Determination and disposition of claims—retail food stores, wholesale food concerns, and meal services.

272.8 Administrative review—retail food stores, wholesale food concerns, and meal services.

13. In § 272.1, paragraphs (c) and (e) are revised, a new paragraph designated (d) is added and all subsequent paragraphs are redesignated. The new and amended paragraphs of § 272.1 read as follows:

§ 272.1 Approval of retail food stores, wholesale food concerns, and meal services.

(c) A nonprofit meal delivery service or communal dining facility desiring to prepare and serve meals to households eligible under § 271.3(a) (2) and (3) of this chapter, in addition to meeting the requirements of paragraphs (a) and (b) of this section, must establish that:

(i) It is not receiving federally donated foods from the Department for use in the preparation of meals to be exchanged for food coupons; and

(ii) It is recognized as a tax exempt organization by the Internal Revenue Service; or

(iii) It is a private establishment with which a State or local agency has contracted for meals prepared especially for elderly persons and sold at concessional prices during regular or special hours at the place of business of the private establishment: *Provided*, That approval to participate shall be automatically withdrawn at the time of expiration or cancellation of the contract with the State or local agency.

(d) Drug addiction or alcoholic treatment and rehabilitation programs desiring to prepare and serve meals to households eligible under § 271.3(a) (4) of this subchapter must, in addition to meeting requirements of paragraphs (a), (b) and (c) (i) and (ii) of this section, be certified by the State agency or agencies designated by the Governor as responsible for the State's programs for alco-

holics and drug addicts pursuant to Public Law 91-616, "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970" and Public Law 92-255, "Drug Abuse Office and Treatment Act of 1972", as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics: *Provided*, That approval to participate shall be automatically withdrawn at any time that a program loses its certification from the State agency or agencies."

(e) FNS shall deny the application of any firm if it determines that such firm's participation will not effectuate the purposes of the program. FNS will not consider the participation of a retail food store as effectuating the purposes of the program unless its food sales consist primarily of staple foods for home preparation which are most needed in the diets of eligible households. If FNS determines that a firm does not qualify for participation in the program, a notice to that effect shall be issued to the firm. Such notice shall be delivered by certified mail or personal service. If such firm is aggrieved by such action, it may seek administrative review of such action as provided in § 272.8.

14. In § 272.2, paragraphs (c), (d), (e), (f), (g), (h), (i), and (j) are amended to delete the words "nonprofit" and "delivery" from the phrase "nonprofit meal delivery service(s)", and in paragraph (j) to delete the word "delivered" from the phrase "delivered meal(s)"; paragraphs (b) and (d) are revised and a new paragraph (k) is added. The new and revised paragraphs of § 272.2 read as follows:

§ 272.2 Participation of retail food stores, and meal services.

(b) Coupons shall be accepted by an authorized retail food store or meal service only in exchange for eligible food as defined in § 270.2(s) of this subchapter, except that authorized food stores in Alaska may accept food coupons for hunting and fishing equipment from eligible households participating in accordance with § 271.3(a)(5). An authorized food retailer or meal service shall not accept coupons in payment for deposit on bottles or other returnable food containers.

(d) No retail food store or meal service authorized to receive coupons shall accept coupons marked "paid" or "cancelled," coupons marked with the name or authorization number of any other firm, coupons bearing the name of any bank, or coupons of other than 50-cent denomination which have been detached from the coupon books prior to the time of purchase or delivery of eligible food unless the detached coupons are accompanied by the coupon books which bear the same serial numbers that appear on the detached coupons. It is the right of the head of the household or his selected

representative to detach the coupons from the book.

(k) Authorized Alaskan retailers shall request food coupon customers wanting to purchase hunting and fishing equipment with food coupons to show their identification cards in order to determine that they live in an area designated by FNS as one in which persons are dependent upon hunting and fishing for subsistence.

§ 272.3 [Amended]

15. In § 272.3, paragraphs (a) and (b) (1) are amended to delete the words "nonprofit" and "delivery" from the phrase "nonprofit meal delivery service(s)".

§ 272.4 [Amended]

16. In § 272.4, paragraphs (a), (b) and (c) are amended by deleting the words "nonprofit" and "delivery" from the phrase "nonprofit meal delivery service(s)".

(17. In § 272.5, paragraph (a) is amended by revising the first and third sentences and making an address change. In paragraph (c) (1), subdivisions (i) and (ii) are amended and a new subdivision (iii) is added. The amended paragraphs of § 272.5 read as follows:

§ 272.5 Participation of banks.

(a) Banks may accept coupons for redemption from authorized retail food stores, authorized meal services and authorized wholesale food concerns in accordance with the provisions of this part and the instructions of the Federal Reserve Bank. * * * The redemption certificates shall be held by the receiving bank until final credit has been given by the Federal Reserve Bank after which they shall be forwarded by the receiving banks to the FNS Field Office: *Provided*, That those banks which have been officially notified by FNS shall forward the wholesale food concern's redemption certificates to the FNS Field Office and the retail food stores' and meal services' redemption certificates to:

Food Stamp Control Unit, ASCS Commodity Office, U.S. Department of Agriculture, 3930 West 65th Street, Minneapolis, MN 55435.

(c) (1) FNS shall be liable for losses of shipments of cancelled coupons while in transit to Federal Reserve or correspondent banks: *Provided*, That:

(i) Coupons shall not be deemed to be in transit while in the custody and care of either the transmitting bank, or of the Federal Reserve, or of the correspondent bank, or of their employees.

(ii) The bank is unable to recover the loss from the carrier: *And provided further*, That, in the event of a partial loss, there is evidence of the package having been tampered with or damaged in transit. The Federal Reserve and correspondent bank shall record the condition of packages which on receipt appear to have been tampered with or damaged in transit.

(iii) A statement from the Federal Reserve or correspondent bank that the shipment or part of the shipment was not received. In the event of a partial loss, this statement shall specify the condition of the package upon receipt and state whether it appeared to have been tampered with or damaged in transit.

§ 272.6 [Amended]

18. In § 272.6, paragraph (a) is amended to delete the word "nonprofit" and "delivery" from the phrase "nonprofit meal delivery service."

§ 272.7 [Amended]

19. In § 272.7, paragraph (a) is amended to delete the words "nonprofit" and "delivery" from the phrase "nonprofit meal delivery service".

§ 272.8 [Amended]

20. In § 272.8, paragraph (a) is amended to delete the words "nonprofit" and "delivery" from the phrase "nonprofit meal delivery service".

PART 273—ADMINISTRATIVE AND JUDICIAL REVIEW—FOOD RETAILERS, FOOD WHOLESALERS AND MEAL SERVICES

§ 273.1 [Amended]

21. § 273.1 is amended to delete the words "nonprofit" and "delivery" from the phrase "nonprofit meal delivery services".

PART 274—EMERGENCY FOOD ASSISTANCE FOR VICTIMS OF DISASTERS

22. § 274.4 is amended by adding a new sentence at the end of the section, to read as follows:

§ 274.4 Determination of the need for emergency food assistance.

* * * Further, the area authorized by FNS for emergency food coupon issuance may or may not have boundaries congruent with that area designated as a major disaster by the President.

23. § 274.8 is revised to read as follows:

§ 274.8 General purpose and scope.

The Food Stamp Act provides that the Secretary may establish temporary emergency standards of eligibility for the duration of the emergency without regard to income and other financial resources, for households that are victims of a mechanical disaster which disrupts the distribution of coupons, and for households that are victims of a disaster which disrupted commercial channels of food distribution when he determines that such households are in need of temporary food assistance, and that such commercial channels have again become available to meet the temporary food needs of such households. This subpart implements these temporary emergency provisions of the Food Stamp Act in project areas where the program is in operation. In areas where the program is not in operation, emergency food assistance need in a disaster will be met as

provided in regulations governing the distribution of federally donated foods.

24. § 274.10 is revised to read as follows:

§ 274.10 Definitions.

(a) "Mechanical Disaster" means the cessation for not less than 15 consecutive calendar days of the operation of all equipment available to the State agency for the production of ATP cards, by reason of causes beyond the control of the State agency: *Provided*, That such causes shall not include strikes, lockouts, or work stoppages, or any failure on the part of assigned personnel to operate said equipment.

(b) "Disrupts the distribution of coupons" means that by reason of a mechanical disaster the State agency is unable to produce ATP cards or equivalent authorization-to-purchase documents necessary for the normal issuance of coupons to households.

(c) "Temporary emergency" means an emergency caused by a mechanical disaster or any other disaster resulting from either natural or human causes, other than a major disaster declared by the President under the Disaster Relief Act of 1970, which is determined by FNS to have disrupted the distribution of coupons or to have disrupted commercial channels of food distribution.

(d) "Temporary standards of eligibility" means standards of eligibility for

victims of a disaster for temporary food assistance as provided in this subpart.

(e) "Victims of a disaster" means households which as a result of a temporary emergency are in need of temporary food assistance due to a reduction in or inaccessibility of income or resources, or due to the disruption of the distribution of coupons by reason of a mechanical disaster: *Provided*, That in the case of a mechanical disaster the term includes only households already certified as eligible to participate in the program as of the month in which such disaster occurred.

(f) "Commercial channels of food distribution" means firms as defined in this subchapter.

24. § 274.11 is revised to read as follows:

§ 274.11 Determination of the need for temporary emergency food stamp assistance.

FNS shall determine the need for temporary food assistance for households which are victims of mechanical and other disasters, including the fact of the existence of a temporary emergency, the disruption of the distribution of coupons, and the disruption of commercial channels of food distribution, and of the fact that commercial channels of food distribution have again become available to meet the temporary food needs of such households.

25. In § 272.12, paragraph (a) is revised to read as follows:

§ 274.12 Certification of households and issuance of coupons.

(a) The eligibility of each applicant for temporary emergency food stamp assistance under this subpart shall be determined by the State agency under the temporary standards of eligibility. An applicant household shall be determined eligible for temporary emergency participation if such household establishes to the satisfaction of the State agency that it is in need of food assistance because of a temporary reduction of or inaccessibility of income or resources or because of the disruption of coupon distribution without regard to eligibility standards for households under Part 271 of this subchapter, resulting from a temporary emergency, as determined by FNS, and after a determination by FNS that commercial channels of food distribution are available to meet the temporary food needs of such households.

(78 Stat. 703, as amended; 7 U.S.C. 2011-2025)

(Catalog of Federal Domestic Assistance Programs No. 10.551, National Archives Reference Services)

Dated: January 23, 1974.

CLAYTON YEUTER,
Assistant Secretary.

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