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PART I

HIGHLIGHTS OF THIS ISSUE

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

NATIONAL FARM SAFETY WEEK, 1974—Presidential proclamation 7123

ADVISORY COMMITTEE MANAGEMENT—Executive order 7125

INTERNATIONAL SYMPOSIUM ON GEOTHERMAL ENERGY, 1975—Executive order 7127

'74 FEDERAL ELECTION EXPENDITURES—Comptroller General issues state limitations for use of communications media 7196

MANDATORY PETROLEUM PRICES—FEO removes exemption for state and local government sales 7176

OUTER CONTINENTAL SHELF OFF LOUISIANA—Interior Department notice of bidding procedures on oil and gas lease sale No. 33 7209

RAIL SERVICE CONTINUATION—ICC proposal relating to subsidies 7182

AIR QUALITY MAINTENANCE AREAS—EPA announces availability of designation guidelines 7196

PRICE CONTROL—CLC issues special rule for wholesalers and retailers 7177

FLOOD AREAS—Treasury Department issues new loan regulations; effective 3–2–74 7129

(Continued inside)

PART II:

MARINE MAMMALS—Fish and Wildlife Service relaxes certain "taking and clearance" requirements; effective 2–25–74 7261

PART III:

AIR QUALITY IMPLEMENTATION PLANS—EPA rules for review of indirect sources of pollution; effective 7–1–74 7269

PART IV:

HYPOALLERGENIC COSMETICS—FDA proposed definition; comments by 4–26–74 7287

February 25, 1974—Pages 7117–7292

REMINDERS

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

Rules Going into Effect Today

This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

page no. and date

FEBRUARY 25

CAB—Transportation of Mail; application for review..... 4469; 2–4–74

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SAVINGS AND LOANS—FHLBB adopts ruling on prepayment penalties 7129

COAL MINE SAFETY—Interior Department standards for distinctively colored hard hats for inexperienced miners; effective 3–15–74 7175

FOOD AND DRUGS—
FDA reevaluates 2 new drugs pursuant to efficacy studies (2 documents) 7190, 7192
FDA policy statement and approval notice on two new animal drugs (2 documents) 7166, 7167
FDA permits monobutyl ethers contacting food; effective 2–25–74; objections by 3–27–74 7166
FDA proposes to revoke use of monobutyl ethers contacting food; comments by 4–26–74 7181
FDA issues temporary permit for market testing canned pineapple juice 7190

MEETINGS—
FPC: Technical Advisory Committee on Conservation of Energy, 2–27–74 7206
National Science Foundation: Advisory Panel for Research Management Improvement, 3–4 and 3–5–74 7208
HEW: 3 National Advisory Councils of The Health Resources Administration, 3–12 to 3–14–74 7193
National Advisory Council on Education of Disadvantaged Children, 3–10–74 7208
DoD: Chief of Engineers Environmental Advisory Board, 2–26 and 2–27–74 7188
NIH: Cancer Control Education Review Committee, 3–4–74 7193
Cost of Living Council: Health Industry Wage and Salary Committee, 2–28–74 7196
Food Industry Wage and Salary Committee, 2–28–74 7196
Federal Energy Office: Petroleum Industry Advisory Committee, 2–28–74 7199
Retail Dealers Group, 2–25–74 7200
Transportation and Storage Task Group of the Subcommittee on LP–Gas Supply and Demand of the Emergency Advisory Committee for Natural Gas, 2–27–74 7199

Contents

THE PRESIDENT

Executive Orders
Advisory committee management 7125
International Symposium on Geothermal Energy—1975 7127

Proclamations
National Farm Safcty Week, 1974 7123

EXECUTIVE AGENCIES

AGRICULTURAL MARKETING SERVICE

Rules and Regulations
Domestic dates produced or packed in Riverside County, California; amendment of size regulations 7135

Proposed Rules
Milk in Upper Florida; Tampa Bay, and Southeastern Florida marketing areas; partial decision and opportunity to file exceptions 7179

AGRICULTURE DEPARTMENT
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Forest Service.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Proposed Rules
Information panel and nutrition labeling; correction 7181

ARMY DEPARTMENT
See Engineers Corps.

ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT OFFICE

Notices
Deputy Assistant Secretary and Executive Assistant Secretary; delegation to exercise power of authority 7193

ATOMIC ENERGY COMMISSION

Notices
Advisory Committee on Reactor Safeguards; revised notice of meeting 7194
Northern States Power Co.; order designating time and location of prehearing conference 7194
Rochester Gas and Electric Corp.; rescheduling of prehearing conference 7195

CIVIL AERONAUTICS BOARD

Notices
Out Island Airways Ltd.; order dismissing complaint 7195

COMMERCE DEPARTMENT
See Domestic and International Business Administration; National Oceanic and Atmospheric Administration.

COMPTROLLER OF THE CURRENCY BUREAU

Rules and Regulations
Loans in areas having special flood hazards; conditions imposed 7129

COMPTROLLER GENERAL

Notices
Use of communications media; 1974 Federal election expenditure limitations 7196

COST OF LIVING COUNCIL

Rules and Regulations
Automobile wholesalers and retailers; possible inequity prevention 7177

Notices
Food Industry Wage and Salary Committee; notice of meeting 7196
Health Industry Wage and Salary Committee; meeting 7196

CUSTOMS SERVICE

Proposed Rules
Vessels in foreign and domestic trade; information required on manifest of certain coastwise vessels 7179

DEFENSE DEPARTMENT
See Engineers Corps; Navy Department.

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices
Duty-free entry of scientific articles; applications (3 documents) 7188–7190

ENGINEERS CORPS

Notices
Chief of Engineers Environmental Advisory Board; meeting 7188

ENVIRONMENTAL PROTECTION AGENCY

Rules and Regulations
Approval and promulgation of state implementation plans; review of indirect sources 7270

Notices
Air quality maintenance areas; availability of guidelines for designation 7196
Pesticide registration; receipt of and data to be considered in support of applications 7197

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations
Airworthiness directives:
Beech models 19, 23, and 24 airplanes 7163
Piper PA–25 series airplanes 7164

(Continued on next page)

FEDERAL COMMUNICATIONS COMMISSION

Rules and Regulations

Frequency allocations and radio treaty matters; editorial changes 7130

Licensing and regulation of common carrier radio stations in the Multipoint Distribution Service; correction 7134

Public safety and land transportation radio services; location equipment 7134

Proposed Rules

FM broadcast stations; Red Oak, Iowa 7181

Notices

Commercial Radio Institute, Inc., and Western Pennsylvania Christian Broadcasting Co.; order designating applications for consolidated hearing of stated issues 7198

FEDERAL ENERGY OFFICE

Rules and Regulations

State and local Government sales; removal of exemptions 7176

Notices

Meetings:
- Emergency Advisory Committee for Natural Gas Subcommittee on LP-Gas Supply and Demand 7199
- Petroleum Industry Advisory Committee 7199
- Retail Dealers Group 7200

FEDERAL HOME LOAN BANK BOARD

Rules and Regulations

Prepayment penalties; board rulings 7129

FEDERAL INSURANCE ADMINISTRATION

Rules and Regulations

Area of eligibility for the sale of insurance; status of participating communities (4 documents) 7168–7170

Identification of special hazard areas; list of communities 7171

FEDERAL MARITIME COMMISSION

Notices

Gulf Florida Terminal Co. and Eller and Co., Inc.; notice of agreement filed 7200

Household Goods Forwarders Association of America Inc., et al.; order to show cause 7200

Transocean Gateway Corp. and United States Lines Inc.; notice of agreement filed 7201

FEDERAL POWER COMMISSION

Proposed Rules

Investigation of rates charged for nonjurisdictional sales of natural gas 7182

Notices

Conservation of natural resources; denial of petition 7201

National Power Survey; notice of meeting 7206

National Power Survey Technical Advisory Committee on Power Supply; designation of additional members (3 documents) 7206

Hearings, etc.:
- Electric and Water Plant Board, Frankford, Ky 7202
- El Paso Natural Gas Co 7203
- Forest Oil Corp 7203
- Hondo Production Co 7204
- Minnesota Power and Light Co 7205
- Missouri Edison Co 7206
- Public Service Company of Oklahoma 7207
- Southern California Edison Co 7207
- Southern Natural Gas Co 7207
- Texas Gas Transmission Corp 7207
- Texas Eastern Transmission Corp 7207
- Wisconsin Power and Light Co 7208

FEDERAL TRADE COMMISSION

Rules and Regulations

Gimbel Brothers, Inc.; prohibited trade practices 7164

FISH AND WILDLIFE SERVICE

Rules and Regulations

Marine mammals; relaxation of certain requirements 7262

Operation of vehicles on National Wildlife Refuges 7176

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

Administrative functions, practices, and procedures; revisions of delegations of authority regarding imports 7165

Food and food products; boiler water additives 7166

New animal drugs; anthelmintic drugs for use in animals 7166

New animal drugs in oral dosage forms; dexamethasone powder, veterinary 7167

Proposed Rules

Food additives; revocation of use of two boiler water additives 7181

Hypoallergenic cosmetics; definition 7288

Notices

Castle and Cooke Foods; temporary permit for market testing of canned pineapple juice deviating from identity standard 7190

Drug efficacy study implementation; follow-up:
- Certain vaginal preparation containing sulfanilamide, aminacrine hydrochloride, and allantoin 7190
- Methylprednisolone 7192

Gastrointestinal Drugs Advisory Committee; establishment 7191

Medical Device Classification Panel; request for nominations for members 7191

Pulmonary-allergy and Clinical Immunology Advisory Committee; renewal 7192

FOREST SERVICE

Notices

Limestone mining; draft environmental statement 7213

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Food and Drug Administration; Health Resources Administration; National Institutes of Health.

HEALTH RESOURCES ADMINISTRATION

Notices

Federal Hospital Council, et al.; meetings 7193

National Advisory Public Health Training Council; renewal 7193

HEARINGS AND APPEALS OFFICE

Notices

Petition for modification of application mandatory safety standard:
- Gay Coal, Inc 7212
- Oliver Springs Mining Co., Inc 7212

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Assistant Secretary for Community Planning and Development; Federal Insurance Administration.

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Hearings and Appeals Office; Land Management Bureau; Mines Bureau.

Notices

Draft environmental statement; proposed Lake Woodruff Wilderness Area, Florida 7212

INTERSTATE COMMERCE COMMISSION

Proposed Rules

Standards for determining rail service continuation subsidies 7182

Notices

Assignment of hearings 7213

Fourth section application for relief 7213

Motor Carrier Board transfer proceedings (2 documents) 7213, 7219

Motor carrier temporary authority applications (2 documents) 7214–7217

LAND MANAGEMENT BUREAU

Notices

Outer Continental Shelf off Louisiana; oil and gas lease sale; bid submission procedures 7209

MANAGEMENT AND BUDGET OFFICE

Notices

Government information collection; requests for clearance of reports 7208

MINES BUREAU

Rules and Regulations

Mandatory safety standards; distinctively colored hard hats for inexperienced miners 7175

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Notices

Meeting 7208

NATIONAL INSTITUTES OF HEALTH

Notices

National Cancer Institute; meeting 7193

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notices

Groundfish fisheries; closure of season 7190

NATIONAL SCIENCE FOUNDATION

Notices

Advisory Panel for Research Management Improvement; notice of meeting 7208

NAVY DEPARTMENT

Rules and Regulations

United States Navy Regulations; addition of new part 7135

TARIFF COMMISSION

Notices

Workers petition for determination; investigation 7208

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration.

TREASURY DEPARTMENT

See also Comptroller of the Currency; Customs Service.

Notices

Regenerative blower/pumps from West Germany; antidumping .. 7188

List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1974, and specifies how they are affected.

3 CFR

EXECUTIVE ORDERS:
11686 (superseded by EO 11769) ... 7125
11769 ... 7125
11770 ... 7127

PROCLAMATIONS:
4269 ... 7123

6 CFR
150 ... 7177

7 CFR
987 ... 7135

PROPOSED RULES:
1006 ... 7179
1012 ... 7179
1013 ... 7179

9 CFR

PROPOSED RULES:
317 ... 7181
381 ... 7181

10 CFR
212 ... 7176

12 CFR
22 ... 7129
555 ... 7129

14 CFR
39 (2 documents) ... 7163, 7164

16 CFR
13 ... 7164

18 CFR

PROPOSED RULES:
Ch. I ... 7182

19 CFR

PROPOSED RULES:
4 ... 7179

21 CFR
2 ... 7165
121 ... 7166
135 ... 7166
135c ... 7167

PROPOSED RULES:
1 ... 7288
121 ... 7181

24 CFR
1914 (4 documents) ... 7168–7170
1915 ... 7171

30 CFR
75 ... 7175
77 ... 7175

32 CFR
700 ... 7135

40 CFR
52 ... 7270

47 CFR
2 ... 7130
21 ... 7134
89 ... 7134
93 ... 7134

PROPOSED RULES:
73 ... 7181

49 CFR

PROPOSED RULES:
1125 ... 7182

50 CFR
18 ... 7262
28 ... 7176

Presidential Documents

Title 3—The President

PROCLAMATION 4269

National Farm Safety Week, 1974

By the President of the United States of America

A Proclamation

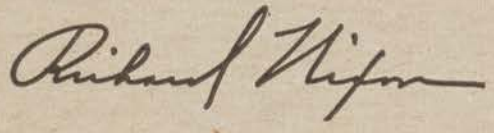
Every one of America's farmers produces enough food to feed 50 other people. Our agricultural productivity plays a fundamental role in our country's international leadership as it enables us to provide assistance to other less fortunate nations and it frees so many in our society for other economic and social efforts which benefit America and the world.

As in every other crucial industry, job safety is essential to the maintenance of high agricultural productivity. But we are concerned with more than productivity alone. Every year farm accidents produce serious injuries and result in the loss of thousands of lives. The financial cost in lost time, production, and medical and property expenses runs into billions of dollars. The cost in human suffering is incalculable.

This needless waste of precious human and economic resources must be and can be sharply reduced through careful attention to basic safety precautions. As we act to provide the food and fibre that feeds and clothes Americans and many people around the world, I urge that we also act to protect the lives of the farmers and farm workers of America through more careful attention to farm safety.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week beginning July 25, 1974, as National Farm Safety Week. During this week and in the ensuing year, I urge all who reside on farms and ranches to employ every needed safety precaution and practice, at work, at home, and in recreation. Further, I ask those who work with and serve farm and ranch people to support them in accident-reducing efforts by providing encouragement, information and education. We must become as effective at reducing accident losses as we have become in increasing agricultural production.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of February, 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.74-4447 Filed 2-21-74;1:42 pm]

EXECUTIVE ORDER 11769

Advisory Committee Management

By virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, including the Federal Advisory Committee Act, 5 U.S.C. App. I (1972 Supp.) (hereinafter referred to as the "act"), and 3 U.S.C. 301, it is ordered as follows:

SECTION 1. The heads of all executive departments and agencies shall take appropriate action to assure their ability to comply with the provisions of the act.

SEC. 2. The Administrator of General Services shall prepare for the consideration of the President the annual report to the Congress required by section 6(c) of the act.

SEC. 3. The Director of the Office of Management and Budget shall:

(1) perform, or designate, from time to time, other officers of the Federal Government to perform, without the approval, ratification, or other action of the President, the functions vested in the President by the act;

(2) prescribe administrative guidelines and management controls for advisory committees covered by the act.

SEC. 4. Executive Order No. 11686 of October 7, 1972 is hereby superseded.

Richard Nixon

THE WHITE HOUSE,
February 21, 1974.

[FR Doc.74-4448 Filed 2-21-74;1:43 pm]

EXECUTIVE ORDER 11770

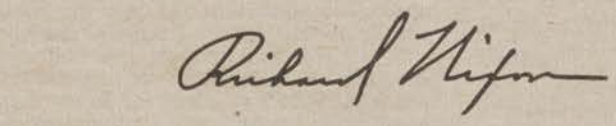
International Symposium on Geothermal Energy—1975

By virtue of the authority vested in me by section 104 of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2454; hereinafter referred to as the act), and section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of the Interior is authorized, with respect to the International Symposium on Geothermal Energy to be held in San Francisco, California, in May 1975, to perform the functions conferred by section 102(b) (5), (7), and (8) of the act.

SEC. 2. I find that the delegation made by section 1 of this order is in the interest of the purposes expressed in the act and the efficient administration of the International Symposium on Geothermal Energy.

SEC. 3. The delegation made by this order shall become effective upon the expiration of sixty days while the Congress is in session. In computing that sixty days, there shall be excluded days on which either House is not in session because of an adjournment of more than three days.



THE WHITE HOUSE,
February 21, 1974.

[FR Doc.74-4449 Filed 2-21-74;1:43 pm]

Rules and Regulations

Title 12—Banks and Banking

CHAPTER I—BUREAU OF THE COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 22—LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

In enacting the Flood Disaster Protection Act of 1973, the Congress found that annual losses throughout the nation from floods and mudslides are increasing at an alarming rate, partly as a result of the accelerating development of, and concentration of population in, areas of flood hazards.

The Congress further found that a component part of this accelerating development has been the availability of financial assistance, including real estate loans by banks and other financial institutions, thus encouraging construction in flood-prone areas.

Accordingly, the Flood Disaster Protection Act imposes certain conditions on the making of such loans by federally supervised, regulated or insured banks and other financial institutions, requiring in substance that the property securing such loans be covered by adequate flood insurance. To implement these requirements, the Federal financial supervisory agencies designated in the Act, including the Comptroller of the Currency, are directed, pursuant to sections 102(b), 202(b) and 205(b) of the Act, issue appropriate regulations with respect to institutions under their supervisory jurisdiction. This Part 22 is intended to comply with that legislative mandate.

Since the Act prescribes the directions to be contained in the regulation and the times that they are to become effective notice, public participation and deferred effective date are not required. This regulation will therefore become effective on March 2, 1974.

Chapter I of Title 12 of the Code of Federal Regulations is amended by adding a new Part 22 which reads as follows:

Sec.
22.0 Authority and scope.
22.1 Definitions.
22.2 Requirement to purchase flood insurance.
22.3 Prohibition as to loans in nonparticipating communities.
22.4 Exemption.
22.5 Records of compliance.

AUTHORITY: Secs. 102(b), 202(b), 205(b) of the Flood Disaster Protection Act of 1973, 87 Stat. 975.

§ 22.0 Authority and scope.

This part is issued by the Comptroller of the Currency pursuant to sections 102(b), 202(b), and 205(b) of the Flood Disaster Protection Act of 1973, 87 Stat. 975. It applies to certain loans secured by improved real estate made by banks in areas determined by the Secretary of Housing and Urban Development to be areas having special flood hazards.

§ 22.1 Definitions.

(a) The term "bank" means a national banking association or a bank located in the District of Columbia and subject to the supervision of the Comptroller of the Currency.

(b) The term "community" means a State or a political subdivision thereof which has building code jurisdiction over a particular area having special flood hazards.

(c) The phrase "community participating in the national flood insurance program" means a community which has complied with the requirements for participation in the national flood insurance program as set forth in § 1909.22 of the regulations of the Federal Insurance Administration of the Department of Housing and Urban Development (24 CFR 1909.22) and in which flood insurance is currently being sold.

§ 22.2 Requirement to purchase flood insurance.

No bank shall make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in an amount at least equal to the outstanding principal balance of the loan or to the maximum limit of coverage made available with respect to the particular type of property under the Act, whichever is less.

§ 22.3 Prohibition as to loans in nonparticipating communities.

On and after July 1, 1975, no bank shall make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards, unless the community in which such area is situated is then participating in the national flood insurance program.

§ 22.4 Exemption.

Notwithstanding the provision of § 22.2 of this part, flood insurance shall not be required on any State-owned property that is covered under an adequate policy of self-insurance satisfactory to the Secretary of Housing and Urban Development who shall publish and periodically revise the list of States falling within the exemption provided by this section.

§ 22.5 Records of compliance.

Each bank shall maintain in connection with all loans secured by improved real estate or a mobile home sufficient records to indicate the method used by the bank to determine whether or not such loans fall within the provisions of §§ 22.2, 22.3, or 22.4.

Dated: February 15, 1974.

[SEAL] JAMES E. SMITH,
Comptroller of the Currency.

[FR Doc.74-4115 Filed 2-22-74;8:45 am]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[74-121]

PART 555—BOARD RULINGS

Prepayment Penalties

FEBRUARY 19, 1974.

The Federal Home Loan Bank Board deems it advisable to issue the following ruling to make clear that the charging of a prepayment penalty by a Federal savings and loan association in connection with a loan secured by a borrower-occupied home is governed exclusively by the provisions of § 545.6-12(b) of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.12 (b)) without regard to any provision of state law.

The ruling is as follows:

§ 555.15 Prepayment penalty on mortgage loans.

(a) Section 5(a) of the Home Owners' Loan Act of 1933, as amended, gives the Board plenary authority to prescribe regulations governing the operations of Federal savings and loan associations. Pursuant to such authority, the Board has promulgated § 545.6-12(b) of the rules and regulations for the Federal Savings and Loan System, which provides, in part, as follows:

Each borrower from Federal associations on a loan secured by a home or combination of

home and business property shall have the right to prepay the loan without penalty unless the loan contract makes express provision for a prepayment penalty. The prepayment penalty for a loan secured by a home which is occupied or to be occupied in whole or in part by a borrower shall not be more than 6 months' advance interest on that part of the aggregate amount of all prepayments made on such loan in any 12-month period which exceeds 20 percent of the original principal amount of the loan.

(b) Section 545.6–12(b) makes it clear that the charging of a prepayment penalty is a matter of contract between a Federal association and the borrower, and that the borrower may prepay his loan in whole or in part without any penalty unless the loan contract contains an express provision imposing a prepayment penalty. Section 545.6–12(b) also permits a Federal association to include a provision in its loan contract with the borrower (who occupies or will occupy the home securing the mortgage loan) imposing a prepayment penalty at any amount up to, but not in excess of, the maximum limit specified in said section. In other words, § 545.6–12(b) both affirmatively empowers the Federal association to charge a prepayment penalty, and imposes a ceiling on the amount of the prepayment penalty which may be charged to home-occupying borrowers. In accordance with such power, a Federal association may refrain from charging any prepayment penalty, or include a prepayment penalty in the loan contract which is less than the maximum permitted by § 545.6–12(b).

(c) Since the charging of a prepayment penalty is a matter of contract between a Federal association and the borrower, and since the Board, by virtue of § 545.6–12(b), has empowered and authorized the Federal association to include a prepayment provision in the loan contract up to the maximum amount specified in said section, neither the association nor a home-occupying borrower is bound by any contrary provision of State law respecting a prepayment penalty. Thus, in view of the controlling Federal regulation, a Federal association may include a prepayment provision in the loan contract up to the maximum limitation of § 545.6–12(b) regardless of conflicting State law which sets a lower limit or which imposes a different type of prepayment penalty. On the other hand, § 545.6–12(b) sets the permissible limit on the amount of a prepayment penalty to be charged by a Federal association to a home-occupying borrower notwithstanding that State law may allow a higher charge.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.74–4330 Filed 2–22–74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

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

Miscellaneous Amendments

In the matter of amendment of Part 2 of the Commission's rules and regulations to effect certain editorial changes therein.

1. The Commission has before it the desirability of making certain editorial changes in Part 2 of its rules and regulations.

2. Authority for the amendments is contained in sections 4(i), (5)(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules. Because the amendments are editorial in nature, the prior notice and effective date provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, do not apply.

3. It is ordered, effective February 20, 1974, That Part 2 of the rules and regulations is amended as set forth in the Appendix hereto.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

Adopted: February 8, 1974.

Released: February 14, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
JOHN M. TORBET,
Executive Director.

[SEAL]

1. Section 2.601 is amended to read as follows:

§ 2.601 General.

This subpart is corrected to February 14, 1974. The Commission does not distribute copies of these documents. Inquiry may be made to the U.S. Government Printing Office concerning availability for purchase.

2. In § 2.603 paragraphs (a) and (b) are amended to read as follows:

§ 2.603 Treaties and other international agreements relating to radio.

(a) The applicable treaties and other international agreements in force relating to radio and to which the United States of America is a party (other than reciprocal operating agreements for radio amateurs) are listed below:

Date	Citations	Subject
1925	IV Trenwith 4248, 4250, and 4251, TS 724–A, 6 Bevans 22.	US-UK (also for Canada and Newfoundland) Bilateral Arrangements providing for the Prevention of Interference by Ships off the Coasts of these Countries with Radio Broadcasting. Effected by exchanges of notes September and October, 1925. Entered into force Oct. 1, 1925.
1928 and 1929	102 LNTS 143, TS 767–A, 6 Bevans 26.	US-Canada Arrangement governing Radio Communications between Private Experimental Stations. Effected by exchange of notes at Washington Oct. 2 and Dec. 29, 1928, and Jan. 12, 1929. Entered into force Jan. 1, 1929. Continued by the arrangement contained in EAS 62.
1929	IV Trenwith 4787, TS 777–A, 2 Bevans 775.	US-Canada (including Newfoundland) Arrangement relating to Assignment of High Frequencies on the North American Continent. Effected by exchange of notes at Ottawa Feb. 26 and 28, 1929. Entered into force Mar. 1, 1929. (Originally, Cuba was also a party to this arrangement, but by virtue of notice to the Canadian Government, it ceased to be a party effective Oct. 5, 1933.)
1934	49 Stat. 3555, EAS 66, 10 Bevans 1103.	US-Peru Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Lima Feb. 16, and May 23, 1934. Entered into force May 23, 1934.
1934	48 Stat. 1876, EAS 62, 6 Bevans 26.	US-Canada Arrangement relative to Radio Communications between Private Experimental Stations and between Amateur Stations. Continues the arrangement contained in TS 767–A. Effected by exchange of notes at Ottawa Apr. 23, and May 2 and 4, 1934. Entered into force May 4, 1934.
1934	49 Stat. 3667, EAS 72, 6 Bevans 564.	US-Chile Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Santiago Aug. 2 and 17, 1934. Entered into force Aug. 17, 1934.
1937	53 Stat. 1576, TS 938, 3 Bevans 462.	Inter-American Radio Communications Convention between the United States and Other Powers. Signed at Havana Dec. 13, 1937. (First Inter-American Radio Conference.) Entered into force for the United States July 21, 1938, for parts I, III, and IV; Apr. 17, 1939, for part II. Part II of the convention (Inter-American Radio Office) terminated for all parties Dec. 20, 1958 (TIAS 4079).
1938	54 Stat. 1675, TS 949, 3 Bevans 529.	Regional Radio Convention between the United States (in behalf of the Canal Zone) and Other Powers. Signed at Guatemala City Dec. 8, 1938. Entered into force Oct. 8, 1939.
1939	53 Stat. 2157, EAS 143, 6 Bevans 143.	US-Canada Arrangement governing the Use of Radio for Civil Aeronautical Services. Effected by exchange of notes at Washington Feb. 20, 1939. Entered into force Feb. 20, 1939.
1946	60 Stat. 1696, TIAS 1527.....	US-USSR Agreement on Organization of Commercial Radio Teletype Communication Channels. Signed at Moscow May 24, 1946. Entered into force May 24, 1946.
1947	61 Stat. (4) 3800, TIAS 1726, 6 Bevans 447.	US-Canada Agreement providing for Frequency Modulation Broadcasting in Channels in the Radio Frequency Band 88–108 Mc/s. Effected by exchange of notes at Washington Jan. 8 and Oct. 15, 1947. Entered into force Oct. 15, 1947.
1947	61 Stat. (4) 3416, TIAS 1676..	US-UN Agreement relative to Headquarters of the United Nations. Signed at Lake Success June 26, 1947. Entered into force Nov. 21, 1947. Supplemented by the agreements contained in TIAS 5961 and TIAS 6750 signed Feb. 9, 1966, and Aug. 28, 1969, respectively.
1947	61 Stat. (3) 3131, TIAS 1652..	US-UK Agreement regarding Standardization of Distance Measuring Equipment. Signed at Washington Oct. 13, 1947. Entered into force Oct. 13, 1947.

Date	Citations	Subject
1948	9 UST 621, TIAS 4044, 4 Bevans 700.	Intergovernmental Maritime Consultative Organization (IMCO) Convention. Signed at Geneva Mar. 6, 1948. Entered into force Mar. 17, 1958. Modified by the amendments contained in TIAS 6285 and in TIAS 6490 adopted by the IMCO Assembly Sept. 15, 1964, and Sept. 28, 1965, respectively.
1949	3 UST (3) 3064, TIAS 2489, 4 Bevans 851.	Inter-American Radio Agreement between the United States and Canada and Other American Republics. Signed at Washington July 9, 1949. (4th Inter-American Radio Conference.) Entered into force Apr. 13, 1952, subject to the provisions of Article 13.
1949	3 UST (2) 2686, TIAS 2435, 4 Bevans 852.	London Telecommunications Agreement between the United States and Certain British Commonwealth Governments. Signed at London Aug. 12, 1949. Entered into force Feb. 24, 1950. Amended by the agreement contained in TIAS 2705 which was signed Oct. 1, 1952.
1950	3 UST (2) 2672, TIAS 2433..	US-Ecuador Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Quito Mar. 16 and 17, 1950. Entered into force Mar. 17, 1950.
1950 and 1951	2 UST (1) 683, TIAS 2223...	US-Liberia Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Monrovia Nov. 9, 1950, and Jan. 8, 9, and 10, 1951. Entered into force Jan. 11, 1951.
1950	11 UST 413, TIAS 4460.....	North American Regional Broadcasting Agreement (NARBA). Signed at Washington Nov. 15, 1950. Entered into force Apr. 19, 1960. Effective between United States, Canada, Cuba, Dominican Republic, and the United Kingdom of Great Britain and Northern Ireland for the Bahama Islands. Ratification on behalf of Jamaica pending.
1951	3 UST (3) 3787, TIAS 2508..	US-Canada Convention relating to the Operation by Citizens of Either Country of Certain Radio Equipment or Stations in the Other Country. Signed at Ottawa Feb. 8, 1951. Entered into force May 15, 1952.
1951 and 1952	3 UST (3) 3892, TIAS 2520..	US-Cuba Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Havana Sept. 17, 1951, and Feb. 27, 1952. Entered into force Feb. 27, 1952.
1951	3 UST (2) 2860, TIAS 2459..	US-Cuba Agreement concerning the Control of Electromagnetic Radiation. Effected by exchange of notes at Havana Dec. 10 and 18, 1951. Entered into force Dec. 18, 1951.
1952	3 UST (4) 4926, TIAS 2666..	US-Canada Agreement for the Promotion of Safety on the Great Lakes by Means of Radio. The agreement applies to vessels of all countries provided for in Article 3. Signed at Ottawa Feb. 21, 1952. Entered into force Nov. 13, 1954.
1952	3 UST (3) 4443, TIAS 2594..	US-Canada Agreement relating to the Assignment of Television Frequency Channels along United States-Canadian Border. Effected by exchange of notes at Ottawa Apr. 23 and June 23, 1952. Entered into force June 23, 1952.
1952	3 UST (4) 5140, TIAS 2705...	London Revision (1952) of the London Telecommunications Agreement (1949) between the United States and Certain British Commonwealth Governments. Signed at London Oct. 1, 1952. Entered into force Oct. 1, 1952. This amends the agreement contained in TIAS 2435 signed Aug. 12, 1949.
1953	5 UST (3) 2840, TIAS 3138..	US-Canada Understanding relating to the Sealing of Mobile Radio Transmitting Equipment. Effected by exchange of notes at Washington Mar. 9 and 17, 1953. Entered into force Mar. 17, 1953.
1956	7 UST 2179, TIAS 3617....	US-Panama Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Panama July 19 and Aug. 1, 1956. Entered into force Sept. 1, 1956.
1956	7 UST 2839, TIAS 3665.....	US-Costa Rica Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Washington Aug. 13 and Oct. 19, 1956. Entered into force Oct. 19, 1956.
1956	7 UST 3159, TIAS 3694.....	US-Nicaragua Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Managua Oct. 8 and 16, 1956. Entered into force Oct. 16, 1956.
1957	9 UST 1037, TIAS 4079.....	Multilateral Declaration between the United States and Other Powers terminating Part II (Inter-American Radio Office) of the Inter-American Radio Communications Convention of Dec. 13, 1937 (TS–938). Signed at Washington Dec. 20, 1957. Entered into force Dec. 20, 1957. Additionally, a Contract on the Exchange of Notifications of Radio Broadcasting Frequencies between the Pan American Union, the United States and Other Powers was signed at Washington Dec. 20, 1957. Entered into force Jan. 1, 1958.
1958	9 UST 1091, TIAS 4089.....	US-Mexico Agreement regarding Allocation of Ultra High Frequency Channels to Land Border Television Stations. Effected by exchange of notes at Mexico July 16, 1958. Entered into force July 16, 1958.
1958	10 UST 2423, TIAS 4390....	Telegraph Regulations (Geneva Revision, 1958) Annexed to the International Telecommunication Convention. Signed at Geneva Nov. 29, 1958. Entered into force Jan. 1, 1960.
1959	10 UST 1449, TIAS 4295....	US-Mexico Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Mexico July 31, 1959. Entered into force Aug. 30, 1959.
1959 and 1960	11 UST 257, TIAS 4442.....	US-Honduras Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Tegucigalpa Oct. 26, 1959, and Feb. 17, 1960, and related note of Feb. 19, 1960. Entered into force Mar. 17, 1960.
1959	10 UST 3019, TIAS 4394....	US-Venezuela Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Caracas Nov. 12, 1959. Entered into force Dec. 12, 1959.
1959	12 UST 2377, TIAS 4893....	International Radio Regulations Annexed to the International Telecommunication Convention. Signed at Geneva Dec. 21, 1959. Entered into force with respect to the United States Oct. 23, 1961. Revised by the Partial Revisions of the Radio Regulations, Geneva, 1959, contained in TIAS 5603, TIAS 6332, TIAS 6590, and TIAS 7435 signed Nov. 8, 1963, Apr. 29, 1966, Nov. 3, 1967, and July 17, 1971, respectively.
1960	11 UST 1, TIAS 4399.....	US-Haiti Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Port-au-Prince Jan. 4 and 6, 1960. Entered into force Feb. 5, 1960.
1960	16 UST 185, TIAS 5780.....	International Convention for the Safety of Life at Sea and Annexed Regulations. Signed at London June 17, 1960. Entered into force May 26, 1965. Corrections to certain annexes contained in TIAS 6284 signed Feb. 15, 1966.
1960	11 UST 2229, TIAS 4596....	US-Paraguay Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Asuncion Aug. 31, and Oct. 6, 1960. Entered into force Nov. 5, 1960.
1961	17 UST 1574, TIAS 6115....	US-Uruguay Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Montevideo Sept. 12, 1961. Entered into force Sept. 26, 1966.
1961	12 UST 1695, TIAS 4888....	US-Bolivia Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at La Paz Oct. 23, 1961. Entered into force Nov. 22, 1961.
1962	13 UST 411, TIAS 5001.....	US-El Salvador Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at San Salvador Apr. 5, 1962. Entered into force May 5, 1962.
1962	13 UST 997, TIAS 5043.....	US-Mexico Agreement relating to the Assignment of VHF Television Channels along United States-Mexican Border. Effected by exchange of notes at Mexico Apr. 18, 1962. Entered into force Apr. 18, 1962.

Date	Citations	Subject
1962	13 UST 2418, TIAS 5205	US-Canada Agreement relating to the Coordination and Use of Radio Frequencies above 30 Mc/s. Effected by exchange of notes at Ottawa Oct. 24, 1962. Entered into force Oct. 24, 1962. The technical annex to this agreement was revised by the agreement contained in TIAS 5833 signed June 16 and 24, 1965.
1963	14 UST 817, TIAS 5360	US-Dominican Republic Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Santo Domingo Apr. 18 and 22, 1963. Entered into force May 22, 1963.
1963	15 UST 887, TIAS 5603	Partial Revision of the Radio Regulations Geneva, 1959, Final Acts of the EARC to Allocate Frequency Bands for Space Radio Communication Purposes. Singed at Geneva Nov. 8, 1963. Entered into force Jan. 1, 1965.
1963	14 UST 1754, TIAS 5483	US-Colombia Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Bogota Nov. 16 and 29, 1963. Entered into force Dec. 29, 1963.
1964	18 UST 1299, TIAS 6285	Amendments to Articles 17 and 18 of the IMCO Convention (TIAS 4044). Adopted by the IMCO Assembly at London Sept. 15, 1964. Entered into force Oct. 6, 1967.
1965	16 UST 821, TIAS 5816	US-Brazil Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Washington June 1, 1965. Entered into force June 1, 1965.
1965	16 UST 923, TIAS 5833	US-Canada Agreement regarding Coordination and Use of Radio Frequencies above 30 Mc/s Revising the Technical Annex to the Agreement of Oct. 24, 1962 (TIAS 5205). Effected by exchange of notes at Ottawa June 16 and 24, 1965. Entered into force June 24, 1965.
1965	16 UST 883, TIAS 5827	US-Israel Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Washington July 7, 1965. Entered into force Aug. 6, 1965.
1965	19 UST 4855, TIAS 6490	Amendment to Article 28 of the IMCO Convention (TIAS 4044). Adopted by the IMCO Assembly at Paris Sept. 28, 1965. Entered into force Nov. 3, 1968.
1965	18 UST 575, TIAS 6267	International Telecommunication Convention. Signed at Montreux Nov. 12, 1965. Entered into force with respect to the United States May 29, 1967.
1966	17 UST 74, TIAS 5961	US-UN Agreement regarding Headquarters of the United Nations Supplementing the Agreement of June 26, 1947 (TIAS 1676). Signed at New York Feb. 9, 1966. Entered into force Feb. 9, 1966. Amended by the agreement contained in TIAS 6176 signed Dec. 8, 1965.
1966	18 UST 1289, TIAS 6284	Proces-Verbal of Rectification to Certain Annexes to the International Convention for the Safety of Life at Sea of June 17, 1960 (TIAS 5780). Done at London Feb. 15, 1966.
1966	18 UST 2091, TIAS 6332	Partial Revision of the Radio Regulations, Geneva, 1959, Final Acts of the EARC for the Preparation of a Revised Allotment Plan for the Aeronautical Mobile (R) Service. Signed at Geneva Apr. 29, 1966. Entered into force for the United States Aug. 23, 1967, except for the frequency allotment plan contained in Appendix 27 which entered into force Apr. 10, 1970.
1966	17 UST 2319, TIAS 6176	US-UN Agreement regarding Headquarters of the United Nations Amending the Supplemental Agreement of Feb. 9, 1966 (TIAS 5961). Effected by exchange of notes at New York Dec. 8, 1966. Entered into force Dec. 8, 1966.
1967	18 UST 365, TIAS 6244	US-Argentina Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Buenos Aires Mar. 31, 1967. Entered into force Apr. 30, 1967.
1967	18 UST 1201, TIAS 6268	US-Canada Agreement relating to Pre-Sunrise Operation of Certain Standard (AM) Radio Broadcasting Stations. Effected by exchange of notes at Ottawa Mar. 31 and June 12, 1967. Entered into force June 12, 1967. Amended by the agreement contained in TIAS 6626 signed Apr. 18, 1969, and Jan. 31, 1969.
1967	19 UST 6717, TIAS 6590	Partial Revision of the Radio Regulations, 1959, Final Acts of the WARC to Deal with Matters relating to the Maritime Mobile Service. Signed at Geneva Nov. 3, 1967. Entered into force Apr. 1, 1969.
1968 and 1969	20 UST 7, TIAS 6626	US-Canada Agreement relating to Pre-Sunrise Operation of Certain Standard (AM) Radio Broadcasting Stations Amending the Agreement of Mar. 31 and June 12, 1967 (TIAS 6268). Effected by exchange of notes at Ottawa Apr. 18, 1969, and Jan. 31, 1969. Entered into force Jan. 31, 1969.
1968	21 UST 2776, TIAS 7021	US-Mexico Agreement concerning radio broadcasting in the standard band (535–1605 kHz), with annexes. Signed at Mexico Dec. 11, 1968. Entered into force Nov. 18, 1970.
1968	21 UST 2934, TIAS 7021	US-Mexico Agreement concerning the operation of broadcasting stations in the standard broadcast band (535–1605 kHz) during a limited period prior to sunrise ("Pre-Sunrise") and after sunset ("Post-Sunset"), with annexes. Signed at Mexico Dec. 11, 1968. Entered into force Nov. 18, 1970.
1969	20 UST 2810, TIAS 6750	US-UN Agreement regarding Headquarters of the United Nations Supplementing the Agreement of June 26, 1947, as Supplemented (TIAS 1676, 5961, 6176). Signed at New York Aug. 28, 1969. Entered into force Aug. 28, 1969.
1969	21 UST 1744, TIAS 6931	US-Canada Agreement relating to the Operation of Radiotelephone Stations. Signed at Ottawa Nov. 19, 1969. Entered into force July 24, 1970.
1970	21 UST 2089, TIAS 6955	US-NATO Agreement concerning North Atlantic Treaty Organization Satellite Communications Earth Terminal in the United States. Signed at Washington July 10 and at Mons, Belgium Aug. 20, 1970. Entered into force Aug. 20, 1970.
1971	23 UST 1527, TIAS 7435	Partial Revision of the Radio Regulations, 1959, Final Acts of the WARC for Space Telecommunications, with Annex. Signed at Geneva July 17, 1971. Entered into force Jan. 1, 1973.
1971	TIAS 7532	Agreement relating to the International Telecommunications Satellite Organization (INTELSAT), with Annexes, and Operating Agreement. Done at Washington Aug. 20, 1971. Entered into force Feb. 12, 1973.
1971	22 UST 2053, TIAS 7239	US-Trinidad and Tobago Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Port-of-Spain Oct. 26 and Nov. 18, 1971. Entered into force Dec. 18, 1971.
1971	TIAS 7636	US-Guatemala Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Guatemala Oct. 21 and Nov. 19, 1971. Entered into force May 26, 1973.
1972	23 UST 906, TIAS 7355	US-Guyana Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Georgetown May 30 and June 6, 1972. Entered into force July 6, 1972.
1972	TIAS 7508	US-Jordan Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Washington Nov. 13 and 30, 1972. Entered into force Dec. 30, 1972.
1972	TIAS 7697	US-Mexico Agreement concerning Frequency Modulation Broadcasting in the 88 to 108 MHz Band, with Annexes and Related Notes. Signed at Washington Nov. 9, 1972. Entered into force Aug. 9, 1973.

(b) The applicable agreements in force between the United States and another country relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country are as follows:

Date	Citations	Subject
1964	15 UST 1787, TIAS 5649	US-Costa Rica Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at San Jose Aug. 17 and 24, 1964. Entered into force Aug. 24, 1964.
1965	16 UST 93, TIAS 5766	US-Dominican Republic Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Santo Domingo Jan. 28 and Feb. 2, 1965. Entered into force Feb. 2, 1965.
1965	16 UST 165, TIAS 5777	US-Bolivia Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at La Paz Mar. 16, 1965. Entered into force Apr. 15, 1965.
1965	16 UST 181, TIAS 5779	US-Ecuador Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Quito Mar. 26, 1965. Entered into force Mar. 26, 1965.
1965	16 UST 817, TIAS 5815	US-Portugal Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Lisbon May 17 and 26, 1965. Entered into force May 26, 1965.
1965	16 UST 869, TIAS 5824	US-Belgium Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Brussels June 15 and 18, 1965. Entered into force June 18, 1965.
1965	16 UST 973, TIAS 5836	US-Australia Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Canberra June 25, 1965. Entered into force June 25, 1965.
1965	16 UST 1160, TIAS 5860	US-Peru Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Lima June 28 and Aug. 11, 1965. Entered into force Aug. 11, 1965.
1965	16 UST 1746, TIAS 5900	US-Luxembourg Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Luxembourg July 7 and 29, 1965. Entered into force July 29, 1965.
1965	16 UST 1131, TIAS 5856	US-Sierra Leone Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Freetown Aug. 14 and 16, 1965. Entered into force Aug. 16, 1965.
1965	16 UST 1742, TIAS 5899	US-Colombia Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Bogota Oct. 19 and 28, 1965. Entered into force Nov. 28, 1965.
1965	16 UST 2047, TIAS 5941	US-UK Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at London Nov. 26, 1965. Entered into force Nov. 26, 1965. Supplemented by the amendment contained in TIAS 6800 which was signed Dec. 11, 1969.
1966	17 UST 328, TIAS 5978	US-Paraguay Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Asuncion Mar. 18, 1966. Entered into force Mar. 18, 1966.
1966	17 UST 719, TIAS 6022	US-France Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Paris May 5, 1966, with related notes of June 29 and July 6, 1966. Entered into force July 1, 1966. Modified by the amendment contained in TIAS 6711 which was signed Oct. 3, 1969.
1966	17 UST 813, TIAS 6038	US-India Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at New Delhi May 16 and 25, 1966. Entered into force May 25, 1966.
1966	17 UST 760, TIAS 6028	US-Israel Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Washington June 15, 1966. Entered into force June 15, 1966.
1966	17 UST 2426, TIAS 6189	US-Netherlands Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at The Hague June 22, 1966. Entered into force Dec. 21, 1966.
1966	17 UST 1120, TIAS 6068	US-Federal Republic of Germany Arrangement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Bonn June 23 and 30, 1966. Entered into force June 30, 1966.
1966	17 UST 1039, TIAS 6061	US-Kuwait Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Kuwait July 19 and 24, 1966. Entered into force July 19, 1966.
1966	17 UST 1560, TIAS 6112	US-Nicaragua Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Managua Sept. 3 and 20, 1966. Entered into force Sept. 20, 1966.
1966	17 UST 2215, TIAS 6159	US-Panama Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Panama Nov. 16, 1966. Entered into force Nov. 16, 1966.
1966 and 1967	18 UST 525, TIAS 6259	US-Honduras Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Tegucigalpa Dec. 29, 1966, Jan 24 and Apr. 17, 1967. Entered into force Apr. 17, 1967.
1967	18 UST 554, TIAS 6264	US-Switzerland Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Bern Jan. 12 and May 16, 1967. Entered into force May 16, 1967.
1967	18 UST 543, TIAS 6261	US-Trinidad and Tobago Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at St. Ann's and Port of Spain Jan. 14 and Mar. 16, 1967. Entered into force Mar. 16, 1967.
1967	18 UST 361, TIAS 6243	US-Argentina Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Buenos Aires Mar. 31, 1967. Entered into force Apr. 30, 1967.
1967	18 UST 1661, TIAS 6309	US-El Salvador Agreement regarding Alien Amateur Radio Operators Effected by exchange of notes at San Salvador May 24 and June 5, 1967. Entered into force June 5, 1967.
1967	18 UST 1241, TIAS 6273	US-Norway Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Oslo May 27 and June 1, 1967. Entered into force June 1, 1967.
1967	18 UST 1272, TIAS 6281	US-New Zealand Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Wellington June 21, 1967. Entered into force June 21, 1967.
1967	18 UST 2499, TIAS 6348	US-Venezuela Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Caracas Sept. 18, 1967. Entered into force Oct. 3, 1967.
1967	18 UST 2878, TIAS 6378	US-Austria Agreement regarding Alien Amateur Radio Operators. Done at Vienna Nov. 21, 1967. Entered into force Dec. 21, 1967.
1967	18 UST 2882, TIAS 6380	US-Chile Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Washington Nov. 30, 1967. Entered into force Dec. 30, 1967.
1967	20 UST 2883, TIAS 6766	US-Guatemala Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Guatemala Nov. 30 and Dec. 11, 1967. Entered into force Oct. 2, 1969.
1967	18 UST 3153, TIAS 6406	US-Finland Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Helsinki Dec. 15 and 27, 1967. Entered into force Dec. 27, 1967.
1968	19 UST 7852, TIAS 6622	US-Monaco Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Nice and Paris Mar. 29, and Oct. 16, 1968. Entered into force Dec. 1, 1968.
1968	19 UST 4892, TIAS 6494	US-Guyana Agreement regarding Alien Amateur Radio Oprators. Effected by exchange of notes at Georgetown May 6 and 13, 1968. Entered into force May 13, 1968.
1968	19 UST 5994, TIAS 6553	US-Barbados Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Bridgetown Sept. 10 and 12, 1968. Entered into force Sept 12, 1968.
1968	19 UST 6057, TIAS 6566	US-Ireland Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Dublin Oct. 10, 1968, Entered into force Oct. 10, 1968

Date	Citations	Subject
1968	20 UST 490, TIAS 6654	US-Indonesia Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Djakarta Dec. 10, 1968. Entered into force Dec. 10, 1968.
1969	20 UST 773, TIAS 6690	US-Sweden Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Stockholm May 27 and June 2, 1969. Entered into force June 2, 1969.
1969	20 UST 2398, TIAS 6711	US-France Agreement regarding Alien Amateur Radio Operators Amending the Agreement of May 5, 1966 (TIAS 6022). Effected by exchange of notes at Paris Oct. 3, 1969. Entered into force Oct. 3, 1969.
1969	20 UST 4089, TIAS 6800	US-UK Agreement regarding Alien Amateur Radio Operators Supplementing the Agreement of Nov. 20, 1965 (TIAS 5941). Effected by exchange of notes at London Dec. 11, 1969. Entered into force Dec. 11, 1969.
1970	21 UST 1960, TIAS 6936	US-Brazil Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Rio de Janeiro and Brasilia Jan. 26, June 19 and July 30, 1970. Entered into force June 19, 1970.
1971	22 UST 694, TIAS 7127	US-Jamaica Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Kinsgton Mar. 4 and Apr. 28, 1971. Entered into force Apr. 28, 1971.
1971	22 UST 701, TIAS 7129	US-Uruguay Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Montevideo May 28, 1971. Entered into force May 28, 1971.
1972	23 UST 1334, TIAS 7417	US-Fiji Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Suva and Washington July 10 and Aug. 14, 1972. Entered into force Aug. 14, 1972.
1973	TIAS 7730	US-Denmark Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Copenhagen Oct. 11, 1973. Entered into force Oct. 11, 1973.

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[Docket No. 19493]

PART 21—DOMESTIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

Common Carrier Radio Stations in Multipoint Distribution Service; Correction

In the matter of amendments of Parts 1, 2, 21, and 43 of the Commission's rules and regulations to provide for licensing and regulation of common carrier radio stations in the Multipoint Distribution Service.

In the "Report and Order" released January 18, 1974 (FCC 74-34) and published at 39 FR 2760 in the issue of Wednesday, January 24, 1974, § 21.901 (c) contained in the Appendix is corrected to include (in appropriate alphabetical order) the Principal City of San Antonio, Texas with coordinates of Latitude 29°25'24" N., Longitude 98°29'43" W.

Released: February 13, 1974.

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

[FR Doc.74-4348 Filed 2-22-74;8:45 am]

[FCC 74-144]

PART 89—PUBLIC SAFETY RADIO SERVICES

PART 93—LAND TRANSPORTATION RADIO SERVICES

Radio Location Equipment

In the matter of amendment of §§ 89.117(b) and 93.109(b) to clarify language and in Part 93 to specify a new type-acceptance date for radio-location equipment.

1. By Commission Order, all new radiolocation equipment authorized subsequent to January 1, 1974, to operate in the Public Safety and Land Transportation Radio Services (Parts 89 and 93, respectively) must be type-accepted by the Commission for operation.

2. The Association of American Railroads (AAR), however, has requested a six month extension of the above date for users authorized in Part 93, the Land Transportation Radio Services. In support of its request, the AAR states that manufacturers of radiolocation equipment used by the railroads misunderstood the type-acceptance requirement and, consequently, have made no progress toward obtaining type-acceptance for their equipment. The requested six month extension, AAR states, will provide the manufacturers with the additional time necessary to apply for, and obtain, the required type-acceptance.

3. We have carefully reviewed this request and, in view of the misunderstanding, feel that the public interest will be served by granting it, because the railroads will be provided with an adequate opportunity to comply with our rules without disruption of railroad operations.

4. In addition, on our own motion, we will amend §§ 89.117(b) and 93.109(b) to exclude previously authorized radiolocation stations governed by Parts 89 and 93 from the equipment type-acceptance requirement. This will mean that radiolocation stations authorized under Part 89 prior to January 1, 1974, and stations authorized under Part 93 prior to July 1, 1974, may be continued to be authorized indefinitely even though non-type-accepted equipment is used. This action will ease the equipment conversion problems and would be in the public interest. There also appears to be some confusion as to the requirements with regard to marketing of equipment for use under these parts. Therefore, we have amended the above sections to reflect the current equipment marketing requirements as specified in Subpart I of Part 2 of our rules.

5. The amendments adopted here relax requirements and acceptance on the part of those affected is expected. Therefore, we conclude that compliance with the prior notice and effective date requirements of 5 U.S.C. 553 is unnecessary.

6. In view of the foregoing, *It is ordered*, Pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, that effective February 27, 1974, §§ 89.117(b) and 93.109(b) of the Commission's rules are amended as set forth in the attached Appendix.

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

Adopted: February 13, 1974.

Released: February 20, 1974.

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

A. Part 89 of the Commission's rules is amended as follows:

Section 89.117(b) is amended to read as follows:

§ 89.117 Acceptability of transmitters for licensing.

(a) * * *

(b) Each transmitter marketed as specified in § 2.803 of this chapter or utilized by a station authorized for operation under this part must be of a type which is included in the Commission's current Radio Equipment List and is designated for use under this part or be of a type which has been type accepted by the Commission for use under this part. As exceptions to these requirements, type acceptance is not required for the following:

(1) Transmitters used in developmental stations.

(2) Transmitters in police zone and interzone stations authorized as of January 1, 1965.

(3) Transmitters used in radiolocation stations authorized prior to January 1, 1974.

(4) Radiolocation transmitters marketed as specified in § 2.805 of this chapter prior to January 1, 1974.

* * * * *

B. Part 93 of the Commission's rules is amended as follows:

Section 93.109(b) is amended to read as follows:

§ 93.109 Acceptability of transmitters for licensing.

(a) * * *

(b) Each transmitter marketed as specified in § 2.803 of this chapter or utilized by a station authorized for operation under this part must be of a type which is included in the Commission's current Radio Equipment List and is designated for use under this part or be of a type which has been type accepted by the Commission for use under this part. As exceptions to these requirements, type acceptance is not required for the following:

(1) Transmitters used in developmental stations.

(2) Transmitters used in radiolocation stations authorized prior to July 1, 1974.

(3) Radiolocation transmitters marketed as specified in § 2.805 of this chapter prior to July 1, 1974.

* * * * *

[FR Doc.74-4347 Filed 2-22-74;8:45 am]

Title 7—Agriculture

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

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

Termination of Size Regulation

The California Date Administrative Committee has unanimously recommended termination of the size regulation for pitted Deglet Noor dates handled to meet the trade demand of the United States and Canada. This regulation is contained in § 987.204(a) of Subpart—Grade and Size Regulations (7 CFR 987.202-987.204). The subpart is operative pursuant to § 987.40 of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987), regulating the handling of domestic dates produced or packed in Riverside County, California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Section 987.204(a) provides, in part, that pitted Deglet Noor dates shall not be handled to meet the trade demand of the United States and Canada unless the individual dates weigh at least 5.6 grams but up to 10 percent, by weight, may weigh less.

Although the domestic 1973 Deglet Noor date crop is generally of good quality, the individual dates tend to be smaller in size and drier than those produced in previous years. Prior to pitting, whole Deglet Noor dates are hydrated to soften them, which facilitates pitting. Handlers are not using a preservative previously used by the industry to prevent spoilage (mold and souring) and therfore must hydrate Deglet Noor dates to a lower moisture content to prevent spoilage.

When these lower moisture dates are pitted, the mechanical pitter removes more flesh with the pit from smaller-sized dates than from larger-sized dates. The weight loss in pitting 1973 crop Deglet Noor dates is great enough to cause a substantial quantity of these dates to fail to meet the size regulation. In prior years, when individual dates were larger in size, the mechanical pitter did not remove as much flesh with the pit. As a result, handlers pitting dates had little difficulty meeting the size regulation.

The termination of the size regulation for pitted Deglet Noor dates would permit good quality Deglet Noors of the smaller sizes, which are suitable for human consumption, to be sold for this purpose as packaged dates. The Committee indicated that the demand for pitted dates currently is excellent.

Based on the foregoing, the recommendation of the Committee, the information submitted therewith, and other available information, it is hereby found and determined that the size requirements on pitted Deglet Noor dates in § 987.204(a) no longer tend to effectuate the declared policy of the act and should therefore be terminated.

It is further found that it is impracticable, unnecessary, and contrary to public interest to give preliminary notice and engage in public rule making procedure, and that good cause exists for not postponing the effective time until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) and for making this action effective at the time hereinafter provided in that:

(1) This action relieves restrictions on handlers by permitting them to pit small-sized good quality dates to meet an excellent demand for pitted dates; (2) this action should be made effective promptly to permit handlers to take advantage of the current excellent demand for pitted dates thereby tending to maximize sales of domestic dates; and (3) handlers are aware of the Committee's recommendation and were afforded the opportunity to present their views at an open meeting held to consider the termination of the size regulation on pitted Deglet Noor dates, and hence, need no additional notice to comply with this action.

It is, therefore, ordered, That § 987.204 of Subpart—Grade and Size Regulations (7 CFR 987.202-987.204) be amended by deleting therefrom the last sentence of paragraph (a). As amended, § 987.204(a) reads as follows:

§ 987.204 Size regulations.

(a) *Free dates.* Whole dates of the Deglet Noor variety shall not be handled to meet the trade demand of the United States and Canada unless the individual dates in the samples from the lot weigh at least 6.5 grams but up to 10 percent, by weight, may weigh less than 6.5 grams.

* * * * *

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

Dated February 19, 1974, to become effective February 26, 1974.

CHARLES R. BRADER,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc.74-4369 Filed 2-22-74;8:45 am]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

SUBCHAPTER A—UNITED STATES NAVY REGULATIONS, AND OFFICIAL RECORDS

PART 700—UNITED STATES NAVY REGULATIONS

On March 26, 1973, notice of the implementation of United States Navy Regulations, 1973, was published in the FEDERAL REGISTER (38 FR 7892). The purpose of this amendment is to incorporate United States Navy Regulations, 1973, less Chapter 10, thereof, as a new Part 700 of Subchapter A, Chapter VI, of Title 32, Code of Federal Regulations, with an effective date of March 26, 1973. United States Navy Regulations are issued in accordance with the provisions of title 10, United States Code, section 6011, for the Government of all persons in the Department of the Navy, and are endowed with the sanction of law as to the duty, responsibility, authority, distinctions, and relationships of various commands, officials, and individuals.

In consideration of the foregoing, the headings for Subchapter A and Part 700 are entitled to read as set forth above. Part 700, formerly reserved, is added as Part 700, United States Navy Regulations, to read as set forth below:

Subpart A—The Department of the Navy

Fruit and Vegetable Division.

Sec.

700.101 Origin and authority.
700.102 Objectives.
700.103 Composition.
700.104 The principal parts of the Department of the Navy.

Subpart B—The Secretary of the Navy

700.201 Responsibilities of the Secretary of the Navy.
700.202 Succession to duties.
700.203 The civilian executive assistants.
700.204 The staff assistants.
700.205 The Chief of Naval Research, the Judge Advocate General, the Deputy Comptroller of the Navy.
700.206 Authority over organizational matters.

Subpart C—The Chief of Naval Operations

700.301 Senior military officer of the Department of the Navy.
700.302 Succession to duties.
700.303 Specific authority and duties of the Vice Chief of Naval Operations.
700.304 Authority and responsibility.
700.305 Naval Vessel Register, classification of naval craft, and status of ships and service craft.
700.306 The Chief of Naval Material.
700.307 The Chief of Naval Personnel and the Chief, Bureau of Medicine and Surgery.
700.308 Naval Inspector General.
700.309 Commander in Chief, U.S. Atlantic Fleet.
700.310 Commander in Chief, U.S. Pacific Fleet.
700.311 Commander in Chief, U.S. Naval Forces, Europe.
700.312 Commander, Military Sealift Command.
700.313 Commander, Naval Intelligence Command.
700.314 Commander, Naval Communication Command.
700.315 Oceanographer of the Navy.
700.316 Commander, Naval Weather Service Command.
700.317 Commander, Naval Security Group Command.
700.318 Chief of Naval Training.
700.319 Chief of Naval Reserve.
700.320 Commandants of naval districts.
700.321 President, Board of Inspection and Survey.

Subpart D—The Commandant of the Marine Corps

700.401 Senior officer of the Marine Corps.
700.402 Succession to duties.
700.403 Authority and responsibilities.
700.404 Specific responsibilities.
700.405 Composition of the Marine Corps.
700.406 Relationships between the Commandant of the Marine Corps and the Chief of Naval Material.
700.407 Serving with the Army by order of the President.

Subpart E—The United States Coast Guard (When Operating As a Service in the Navy)

700.501 Relationship and operation as a service in the Navy.
700.502 Commandant of the Coast Guard.
700.503 Duties and responsibilities.

Subpart F—Commanders in Chief and Other Commanders

700.601 Titles of Commanders.
700.602 Responsibility and authority of a commander.
700.603 To announce assumption of command.
700.604 Readiness.
700.605 Observance of international law.
700.606 Keeping immediate superior informed.
700.607 Organization of a staff.
700.608 Authority and responsibilities of officers of a staff.
700.609 Administration and discipline—staff embarked.
700.610 Administration and discipline—staff based ashore.
700.611 Administration and discipline—staff unassigned to an administrative command.
700.612 Administration and discipline—separate and detached command.

Subpart G—The Commanding Officer

700.701 Applicability.
700.702 Responsibility.
700.703 Presence of officer eligible to command.
700.704 Organization of commands.
700.705 Effective organized force always present.
700.706 Relationship with executive officer.
700.707 Relieving procedures.
700.708 Inspections, muster, and sighting of personnel.
700.709 Unauthorized persons on board.
700.710 Control of passengers.
700.711 Authority over passengers.
700.712 Relations with organizations and military personnel embarked for passage.
700.713 Person found under incriminating circumstances.
700.714 Rules for visits.
700.715 Dealers, tradesmen, and agents.
700.716 Marriages on board.
700.717 Postal matters.
700.718 Safeguarding official funds.
700.719 Deficit or excess of public money or property.
700.720 Deaths.
700.721 The American National Red Cross.
700.722 Observance of Sunday.
700.723 Publishing and posting orders and regulations.
700.724 Maintenance of logs.
700.725 Status of logs.
700.726 Records.
700.727 Welfare of personnel.
700.728 Training and education.
700.729 Delivery of personnel to civil authorities and service of subpoena or other process.
700.730 Delivery of orders to personnel.
700.731 Use and transportation of marijuana, narcotics, and drugs.
700.732 Safety precautions.

Sec.
700.733 Responsibility of a Master of an in-service ship of the Military Sealift Command.
700.734 Relations with merchant seaman.
700.735 Security of magazines and of dangerous materials.
700.736 Physical security.
700.737 Effectiveness for service.
700.738 Request for inspection by Board of Inspection and Survey.
700.739 Action with the enemy.
700.740 Search by foreign authorities.
700.741 Prisoners of war.
700.742 Captured material.
700.743 Casualty and damage.
700.744 Loss of a ship.
700.745 Continuation of authority after loss of ship or aircraft.
700.746 Hospital ship or medical aircraft.
700.747 Status of boats.
700.748 Proper use of labor and materials.
700.749 Work, facilities, supplies, or services for other Government departments, State or local governments, foreign governments, private parties, and morale, welfare, and recreational activities.
700.750 Relations with personnel of naval shipyard or station.
700.751 Movement of ships at a naval station.
700.752 Responsibility for safety of ships and craft at a naval station or shipyard.
700.753 Ships in drydock.
700.754 Pilotage.
700.755 Safe navigation and regulations governing operation of ships and aircraft.
700.756 Duties of the prospective commanding officer of a ship.
700.757 Authority of the commanding officer or prospective commanding officer of a naval nuclear powered ship.
700.758 Inspection incident to commissioning of ships.
700.759 Commissioning and assuming command.
700.760 Preparing for sea after commissioning.
700.761 Personnel organized and stationed.
700.762 Entering a port or landing at a place not designated.
700.763 Quarantine.
700.764 Customs and immigration inspections.
700.765 Environmental pollution.
700.766 When acting singly.
700.767 Issue of personal necessaries.
700.768 Care of ships, aircraft, vehicles, and their equipment.

Subpart H—Precedence, Authority, and Command

700.801 Officers of the naval service.
700.802 Precedence of officers.
700.803 Relative rank and precedence of officers of different services.
700.804 Precedence of an officer in command.
700.805 Precedence of the executive officer.
700.806 Precedence on courts and boards.
700.807 Precedence in processions on shore.
700.808 Title of officers holding acting appointments.
700.809 Titles and authority of certain officers.
700.810 Manner of addressing officers.
700.811 Exercise of authority.
700.812 Authority over subordinates.
700.813 Delegation of authority.
700.814 Abuse of authority.
700.815 Contradictory and conflicting orders.
700.816 Authority of an officer in command.

Sec.
700.817 Authority of an officer who succeeds to command.
700.818 Authority of a vice commander or a deputy.
700.819 Authority of the commander or commanding officer of a base or station over visiting commands.
700.820 Authority over fleet aircraft at a naval station.
700.821 Authority of the commanding officer of a hospital ship.
700.822 Authority of an officer of the Marine Corps over naval forces.
700.823 Authority of officers embarked as passengers.
700.824 Authority to place self on duty.
700.825 Authority in a boat.
700.826 Authority and responsibility of a senior officer under certain circumstances.
700.827 Authority and status of persons in the Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service.
700.828 Authority of officers with acting appointments.
700.829 Authority of warrant officers, noncommissioned officers, and petty officers.
700.830 Authority of a sentry.
700.831 Authority of juniors to issue orders to seniors.
700.832 Basis for details.
700.833 Changes in details to duty.
700.834 Orders to active service.
700.835 Command of a task force.
700.836 Command of naval districts.
700.837 Command of naval bases.
700.838 Command of naval shipyards.
700.839 Command of ships and submarines.
700.840 Command of air activities.
700.841 Multiservice commands.
700.842 Command of staff corps activities.
700.843 Detail of executive officer.
700.844 Detail of heads of department and other officers.
700.845 Detail of person performing medical or religious services.
700.846 Detail of women.
700.847 Detail of enlisted persons for certain duties.
700.848 Rank and grade of an officer who succeeds to command.
700.849 Succession of a deputy or vice commander.
700.850 Succession to command of a bureau.
700.851 Succession to command of the Naval Material Command.
700.852 Succession to command of a naval systems command.
700.853 Succession of a chief of staff and other staff officers.
700.854 Succession prescribed by a commander in chief.
700.855 Succession to command of a fleet, subdivision of a fleet, fleet marine force, or subdivision of a fleet marine force.
700.856 Succession in battle.
700.857 Succession to command of a ship.
700.858 Succession to command of aircraft units and submarines.
700.859 Success to command of a sea frontier or of a naval district.
700.860 Succession to command of a naval base.
700.861 Succession to command of a naval shore activity.
700.862 Succession to command by officers designated for engineering duty or special duty.
700.863 Succession to command by officers of the Marine Corps.

Sec.
700.864 Succession to command on detachment of an officer in command without relief.
700.865 Succession to command by line officers designated for limited duty.
700.866 Succession to command by chief warrant officers and warrant officers.
700.867 Relief of a commanding officer by a subordinate.

Subpart I—The Senior Officer Present

700.901 The senior officer present.
700.902 Eligibility for command at sea.
700.903 Authority and responsibility.
700.904 Authority of senior officer of the Marine Corps present.
700.905 Commands diverted by the senior officer present.
700.906 Authority within commands.
700.907 Distinctions ashore.
700.908 To make known his identity as senior officer present.
700.909 Reports and calls by juniors.
700.910 Concert of action with other armed forces.
700.911 Relations with diplomatic and consular representatives.
700.912 Communication with foreign officials.
700.913 Coordination procedures established by a unified or specified command.
700.914 Violations of international law and treaties.
700.915 Use of force against another state.
700.916 Territorial integrity of foreign nations.
700.917 Dealings with foreigners.
700.918 Readiness and safety of forces.
700.919 Information furnished to subordinates.
700.920 Protection of commerce of the United States.
700.921 Leave and liberty.
700.922 Shore patrol.
700.923 Precautions for health.
700.924 Medical or dental aid to persons not in the naval service.
700.925 Assistance to persons, ships and aircraft in distress.
700.926 Admiralty claims.
700.927 Repairs to merchant vessels.
700.928 Detail of subordinate to perform administrative duties.
700.929 The senior officer present afloat.
700.930 Relations between the senior officer present and the senior officer present afloat.
700.931 General duties of the senior officer present afloat.
700.932 Relations with commanders ashore.
700.933 Juniors to obtain permission from the senior officer present.
700.934 Authority to alter organization.
700.935 Exercise of power of consul.
700.936 File of the senior officer present afloat.
700.937 Medical, dental, communication, and other guard.
700.938 Responsibilities of subordinates.
700.939 Boarding calls.
700.940 Granting of asylum and temporary refuge.

Subpart J—Rights and Responsibilities of Persons in the Department of the Navy

700.1101 Officer's duties relative to laws, orders, and regulations.
700.1102 Requirement of exemplary conduct.
700.1103 Conduct of persons in the naval service.
700.1104 Compliance with lawful orders.
700.1105 Appeal from decision of a superior.
700.1106 Oppression or other misconduct by a superior.
700.1107 Direct communication with the commanding officer.
700.1108 Forwarding individual requests.
700.1109 Accusations, replies, and counter charges.
700.1110 Adverse matter in the record of a person in the naval service.
700.1111 Adverse entries in medical and dental records.
700.1112 Misconduct and line of duty findings.
700.1113 Inspection of the record of a person in the naval service.
700.1114 Correction of naval records.
700.1115 Control of official records.
700.1116 Disclosure and publication of information.
700.1117 Official records in civil courts.
700.1118 Leave and liberty.
700.1119 Quality and quantity of rations.
700.1120 Rules for preventing collisions, afloat and in the air.
700.1121 Discharge of oil, trash, and garbage.
700.1122 Code of conduct for members of the armed forces of the United States.
700.1123 Capture by an enemy.
700.1124 Relations with foreign nations.
700.1125 Language reflecting upon a superior.
700.1126 Suggestions for improvement.
700.1127 Exchange of duty.
700.1128 Unavoidable separation from a command.
700.1129 Combinations for certain purposes prohibited.
700.1130 Making of gifts or presents.
700.1131 Pecuniary dealings with enlisted persons.
700.1132 Lending money and engaging in a trade or business.
700.1133 Use of title for commercial enterprises.
700.1134 Report of a communicable disease.
700.1135 Immunization.
700.1136 Possession of weapons.
700.1137 Report of deficit or excess of public money or property.
700.1138 Use and expenditure of equipage and supplies.
700.1139 Obligation to report offenses.
700.1140 Report of fraud.
700.1141 Possession of Government property.
700.1142 Uniforms, arms, and outfits.
700.1143 Return of Government property on release from active service.
700.1144 Issue or loan of public property.
700.1145 Administrative control of funds.
700.1146 Adoption or use of proprietary articles, inventions or copyrighted material.
700.1147 Service examinations.
700.1148 Dealings with members of Congress.
700.1149 Communications to the Congress.
700.1150 Alcoholic liquors.
700.1151 Responsibilities concerning marijuana, narcotics, and other controlled substances.
700.1152 Records of fitness.
700.1153 Demand for court-martial.
700.1154 Suspension or arrest of an officer.
700.1155 Temporary restoration to duty.
700.1156 Refusal to return to duty.
700.1157 Reprimand or admonition.
700.1158 Limitations on certain punishments.
700.1159 Treatment and release of prisoners.
700.1160 Places of confinement.
700.1161 Endorsement of commercial product or process.
700.1162 Action upon receipt of orders.
700.1163 Equal opportunity and treatment.

Subpart K—Purpose and Force of Regulations Within the Department of the Navy

700.1201 Purpose and force of United States Navy Regulations.
Sec.
700.1202 Issuances concerning matters over which control is exercised.
700.1203 Imposition of workload.
700.1204 Navy Regulations changes.

AUTHORITY: Section 6011 of title 10, United States Code; 38 FR 7892, March 26, 1973.

Subpart A—The Department of the Navy

§ 700.101. Origin and authority.

(a) The naval affairs of the country began with the war for independence, the American Revolution. On 13 October 1775, Congress passed legislation forming a committee to purchase and arm two ships. This in effect created the Continental Navy. Two battalions of Marines were authorized on 10 November 1775. Under the Constitution, the First Congress on 7 August 1789, assigned responsibility for the conduct of naval affairs to the War Department. On 30 April 1798, the Congress established a separate Navy Department with the Secretary of the Navy as its chief officer. On 11 July 1798, the U.S. Marine Corps was established as a separate service, and in 1834 was made a part of the Department of the Navy.

(b) The National Security Act of 1947, as amended, is the fundamental law governing the position of the Department of the Navy in the organization for national defense. In 1949, the Act was amended to establish the Department of Defense as an Executive Department, and to establish the Departments of the Army, Navy and Air Force (formerly established as Executive Departments by the 1947 Act) as military departments within the Department of Defense.

(c) The responsibilities and authority of the Department of the Navy are vested in the Secretary of the Navy, and are subject to his reassignment and delegation. The Secretary is bound by the provisions of law, the direction of the President and the Secretary of Defense, and, along with all Government agencies, the regulations of certain nondefense agencies in their respective areas of functional responsibility.

§ 700.102. Objectives.

The fundamental objectives of the Department of the Navy, within the Department of Defense, are (a) to organize, train, equip, prepare, and maintain the readiness of Navy and Marine Corps forces for the performance of military missions as directed by the President or the Secretary of Defense, and (b) to support Navy and Marine Corps forces, including the support of such forces and the forces of other military departments, as directed by the Secretary of Defense, which are assigned to unified or specified commands. Support, as here used, includes administrative, personnel, material and fiscal support, and technological support through research and development.

§ 700.103. Composition.

The Department of the Navy is separately organized under the Secretary of the Navy. It operates under the authority, direction, and control of the Secretary of Defense. It is composed of the

executive part of the Department of the Navy; the Headquarters, United States Marine Corps; the entire operating forces, including naval aviation, of the United States Navy and of the United States Marine Corps, and the reserve components of those operating forces; and all shore activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Secretary of the Navy. It includes the United States Coast Guard when it is operating as a service in the Navy.

§ 700.104. The principal parts of the Department of the Navy.

(a) Functionally, organizationally and geographically the Department of the Navy has from practically the beginning of the Federal Government under the Constitution consisted of three parts: The Operating Forces of the Navy, the Navy Department, and the Shore Establishment.

(b) The operating forces of the Navy comprise the several fleets, sea-going forces, sea-frontier forces, district forces, Fleet Marine Forces, other assigned Marine Corps Forces, the Military Sealift Command, and other forces and activities that may be assigned thereto by the President or the Secretary of the Navy.

(c) The Navy Department refers to the central executive offices of the Department of the Navy located at the seat of the government. The Navy Department is organizationally comprised of the Office of the Secretary of the Navy which includes his Civilian Executive Assistants, Offices of his Assistants, and the headquarters organizations of the Office of Naval Research, the Office of the Judge Advocate General, and the Office of the Comptroller of the Navy; the Office of the Chief of Naval Operations, the Headquarters, United States Marine Corps; and, under the command of the Chief of Naval Operations, the Headquarters, Naval Material Command, and the headquarters organizations of the Bureau of Naval Personnel and the Bureau of Medicine and Surgery. In addition, the Headquarters, United States Coast Guard, is included when the United States Coast Guard is operating as a service in the Navy.

(d) The shore establishment is comprised of shore activities with defined missions approved for establishment by the Secretary of the Navy.

Subpart B—The Secretary of the Navy

§ 700.201. Responsibilities of the Secretary of the Navy.

The Secretary of the Navy is the head of the Department of the Navy. Under the direction, authority, and control of the Secretary of Defense, he is responsible for the policies and control of the Department of the Navy, including its organization, administration, operation, and efficiency.

§ 700.202. Succession to duties.

(a) When there is a vacancy in the Office of the Secretary of the Navy, or during the absence or disability of the Secretary, the Under Secretary of the Navy, and, in the order prescribed by the Secretary of the Navy, the Assistant Secretaries of the Navy succeed to the duties of the Secretary. If the Secretary does not prescribe an order for succession to his duties, the Assistant Secretaries shall succeed to those duties after the Under Secretary in the order in which they took office as Assistant Secertaries

(b) During the temporary absence of the above officials, the Chief of Naval Operations or, in his absence, the Vice Chief of Naval Operations succeeds to the duties of the Secretary.

§ 700.203. The Civilian Executive Assistants.

(a) The Civilian Executive Assistants to the Secretary of the Navy are the Under Secretary of the Navy and the Assistant Secretaries of the Navy and the Deputy Under Secretary of the Navy. It is the policy of the Secretary to assign Department-wide responsibilities essential to the efficient administration of the Department of the Navy to and among his Civilian Executive Assistants.

(b) Each Civilian Executive Assistant, within his area of responsibility, is the principal adviser and assistant to the Secretary on the administration of the affairs of the Department of the Navy. In carrying out these duties, the Civilian Executive Assistants shall do so in harmony with the statutory position of the Chief of Naval Operations as "the principal naval adviser and naval executive to the Secretary on the conduct of activities of the Department of the Navy" and the responsibilities of the Chief of Naval Operations and the Commandant of the Marine Corps as set forth in these regulations. Each is authorized and directed to act for the Secretary within his assigned area of responsibility.

(c) The Under Secretary of the Navy is designated as the deputy and principal assistant to the Secretary of the Navy, and acts with full authority of the Secretary in the general management of the Department of the Navy, and supervision of offices and organizations as assigned by the Secretary.

(d) The Assistant Secretary of the Navy (Financial Management) is the Comptroller of the Navy, and is responsible for all matters related to the financial management of the Department of the Navy, including budgeting, accounting, disbursing, financing, progress and statistical reporting, auditing, management information systems, automatic data processing systems and equipment (less than integral to a weapons system), and supervision of offices and organizations as assigned by the Secretary. Under the Comptroller, the Deputy Comptroller of the Navy shall, in addition to his other duties, serve as an adviser and assistant to the Chief of Naval Operations and the Commandant of the Marine Corps with respect to financial and budgetary matters.

(e) The Assistant Secretary of the Navy (Installations and Logistics) is responsible for all matters related to the procurement, production, supply, distribution, alteration, maintenance, and disposal of material; all transportation matters; the acquisition, construction, utilization, improvement, alteration, maintenance, and disposal of real estate and facilities, including capital equipment, utilities, housing, and public quarters; printing and publications; labor relations with respect to contractors with the Department of the Navy; industrial security; the Mutual Defense Assistance Program, as related to the supplying of material; and supervision of offices and organizations as assigned by the Secretary.

(f) The Assistant Secretary of the Navy (Manpower and Reserve Affairs) is responsible for the overall supervision of manpower and reserve component affairs of the Department of the Navy, including policy and administration of affairs related to military (active and inactive) and civilian personnel, and supervision of offices and organizations as assigned by the Secretary.

(g) The Assistant Secretary of the Navy (Research and Development) is responsible for all matters related to research, development, engineering, test, and evaluation efforts within the Department of the Navy, including management of the appropriation, "Research, Development, Test and Evaluation, Navy," and for oceanography, ocean engineering and closely related matters, and supervision of offices and organizations as assigned by the Secretary.

(h) The Deputy Under Secretary of the Navy is responsible to the Secretary or Under Secretary for acting as a focal point and coordinator for the resolution of problems which require high-level special attention. He shall maintain a general awareness of actual or potential problems and issues and take steps to prevent their development or aggravation.

§ 700.204. The staff assistants.

The Staff Assistants to the Secretary of the Navy are the Administrative Officer, Navy Department; the General Counsel; the Director of Civilian Manpower Management; the Chief of Information; the Chief of Legislative Affairs; the Director, Office of Management Information; the Director, Office of Naval Petroleum and Oil Shale Reserves; the Director, Office of Program Appraisal; and the heads of such other offices and boards as may be established by law or by the Secretary for the purpose of assisting the Secretary or one or more of his Civilian Executive Assistants in the administration of the Department of the Navy. Each of the foregoing shall supervise all functions and activities internal to his office and assigned shore activities, if any. Each shall be responsible to the Secretary or to one of his Civilian Executive Assistants for the utilization of resources by and the operating efficiency of all activities under his supervision. The duties of the individual Staff Assistants and their respective offices will be as provided by law or as assigned by the Secretary.

§ 700.205. The Chief of Naval Research, The Judge Advocate General, The Deputy Comptroller of the Navy.

The Chief of Naval Research shall command the Office of Naval Research and assigned shore activities. The Judge Advocate General shall command the Office of the Judge Advocate General and assigned shore activities. The Deputy Comptroller of the Navy shall command the Office of the Comptroller of the Navy and assigned shore activities. Each of them shall be responsible to the Secretary of the Navy or to one of his Civilian Executive Assistants, as assigned, for the utilization of resources by and the operating efficiency of all activities under their respective commands. The duties of the Chief of Naval Research, the Judge Advocate General, and the Comptroller of the Navy will be as provided by law or as assigned by the Secretary.

§ 700.206. Authority over organizational matters.

Subject to the approval of the Secretary of the Navy or guidance hereafter furnished by him, the Civilian Executive Assistants, the Chief of Naval Operations, the Commandant of the Marine Corps, the Chief of Naval Research, the Judge Advocate General, the Deputy Comptroller of the Navy, and the Staff Assistants are individually authorized to organize, assign, and reassign responsibilities within their respective commands or offices in the organization of the Department of the Navy, including the establishment and disestablishment of such component organizations as may be necessary, subject to the following:

(a) The authority to disestablish may not be exercised with respect to any organizational component of the Department established by law.

(b) The Secretary retains unto himself the authority to approve the establishment of and disestablishment of shore activities, which will be done in accordance with procedures prescribed by him.

Subpart C—The Chief of Naval Operations

§ 700.301. Senior Military Officer of the Department of the Navy.

(a) The Chief of Naval Operations is the senior military officer of the Department of the Navy, and takes precedence above all other officers of the naval service, except an officer of the naval service who is serving as Chairman of the Joint Chiefs of Staff.

(b) The Chief of Naval Operations is the principal naval adviser to the President and to the Secretary of the Navy on the conduct of war, and the principal naval adviser and naval executive to the Secretary on the conduct of the activities of the Department of the Navy.

(c) The Chief of Naval Operations is the Navy member of the Joint Chiefs of Staff and is responsible for keeping the Secretary of the Navy fully informed on matters considered or acted upon by the Joint Chiefs of Staff. In this capacity, he is responsible, under the President and the Secretary of Defense, for duties external to the Department of the Navy, as prescribed by law.

§ 700.302. Succession to duties.

The Vice Chief of Naval Operations, and then the officers of the Navy, eligible for command at sea, on duty in the office of the Chief of Naval Operations in the order of their seniority, shall, unless otherwise directed by the President, perform the duties of the Chief of Naval Operations during his absence, or disability, or in the event of a temporary vacancy in that office.

§ 700.303. Specific authority and duties of the Vice Chief of Naval Operations.

(a) The Vice Chief of Naval Operations has such authority and duties with respect to the Department of the Navy as the Chief of Naval Operations, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Vice Chief of Naval Operations in performing such duties have the same force and effect as those issued by the Chief of Naval Operations.

(b) Orders issued by the Vice Chief of Naval Operations in performing other duties have the same force and effect as those issued by the Chief of Naval Operations.

§ 700.304. Authority and responsibility.

(a) Internal to the administration of the Department of the Navy, the Chief of Naval Operations, under the direction of the Secretary of the Navy, shall command the Operating Forces of the Navy. The Chief of Naval Operations shall also command the Naval Material Command, the Bureau of Naval Personnel, and the Bureau of Medicine and Surgery. In addition, he shall command such shore activities as may be assigned to him by the Secretary. He shall be responsible to the Secretary for the utilization of resources by, and the operating efficiency of, all commands and activities under his command.

(b) In addition, the Chief of Naval Operations has the following specific responsibilities:

(1) To organize, train, equip, prepare, and maintain the readiness of Navy forces, including those for assignment to unified or specified commands for the performance of military missions as directed by the President, the Secretary of Defense, or the Joint Chiefs of Staff. Naval forces, when assigned to a unified or specified command, are under the full operational command of the commander to whom they are assigned.

(2) To determine and direct the efforts necessary to fulfill current and future requirements of the Navy (less Fleet Marine Forces and other assigned Marine Corps forces) for manpower, material, weapons, facilities, and services, including the determination of quantities, military performance requirements, and times, places, and priorities of need.

(3) To exercise leadership in maintaining a high degree of competence among Navy officer and enlisted and civilian personnel in necessary fields of specialization, through education, training, and equal opportunities for personal advancement, and maintaining the morale and motivation of Navy personnel and the prestige of a Navy career.

(4) To plan and provide health care for personnel of the naval service and their dependents.

(5) To direct the organization, administration, training, and support of the Naval Reserve.

(6) To inspect and investigate components of the Department of the Navy to determine and maintain efficiency, discipline, readiness, effectiveness, and economy, except in those areas where such responsibility rests with the Commandant of the Marine Corps.

(7) To determine the needs of naval forces and activities for research, development, test, and evaluation; to plan and provide for the conduct of development, test, and evaluation which are adequate and responsive to long-range objectives, immediate requirements, and fiscal limitations; and to provide assistance to the Assistant Secretary of the Navy (Research and Development) in the direction, review, and appraisal of the overall Navy RDT&E Program to insure fulfillment of stated requirements.

(8) To formulate Navy strategic plans and policies and participate in the formulation of joint and combined strategic plans and policies and related command relationships.

(9) To budget for commands, bureaus, and offices assigned to the command of the Chief of Naval Operations, and other activities and programs as assigned, except as may be otherwise directed by the Secretary of the Navy.

(c) The Chief of Naval Operations, under the direction of the Secretary of the Navy, shall (except for those areas wherein such responsibility rests with the Commandant of the Marine Corps) exercise overall authority throughout the Department of the Navy in matters related to the effectiveness of the support of the Operating Forces of the Navy, the coordination and direction of assigned Navy-wide programs and functions including those assigned by higher authority, the coordination of activities of the Department of the Navy in matters concerning effectiveness, efficiency, and economy, and matters essential to naval military administration, such as security, intelligence, discipline, communications, and matters related to the customs and traditions of the naval service.

§ 700.305. Naval Vessel Register, classification of naval craft, and status of ships and service craft.

(a) The Chief of Naval Operations shall be responsible for the Naval Vessel Register (except the Secretary of the Navy shall strike vessels from the Register) and the assignment of classification for administrative purposes to water-borne craft and the designation of status for each ship and service craft. The classification of water-borne craft and the status of ships and service craft are found in the glossary.

(b) Commissioned vessels and craft shall be called "United States Ship ——" or "U.S.S. ——".

(c) Civilian manned ships of the Military Sealift Command or other com-

mands designated "active status, in service" shall be called "United States Naval Ship " or "U.S.N.S. ".

(d) The Chief of Naval Operations shall designate hospital ships and medical aircraft as he deems necessary. Such designation shall be in compliance with the Geneva Convention for the Amelioration of the Conditions of Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea of 12 August 1949 and he shall ensure compliance with the notice provisions of that Convention.

§ 700.306. The Chief of Naval Material.

The Chief of Naval Material, under the command of the Chief of Naval Operations, shall command the Naval Material Command. In addition to the tasks which may be assigned by the Chief of Naval Operations, he shall:

(a) Provide direct staff assistance to the Secretary of the Navy and the Civilian Executive Assistants in matters pertaining to contracting, procurement, production and exploratory development, laboratories assigned to the Chief of Naval Material and to related matters. In these areas, the Chief of Naval Material shall inform the Chief of Naval Operations and, when appropriate, the Commandant of the Marine Corps in matters of policy and significant actions.

(b) Be responsive directly to the Commandant of the Marine Corps in providing necessary planning and programming data requirements and in meeting those particular material support needs of the U.S. Marine Corps which are required to be provided by the Naval Material Command.

(c) Provide the Commandant of the Marine Corps with timely advice concerning training and technical requirements essential for the operation and maintenance by Marine Corps personnel of new equipment under development.

(1) Be responsive to the heads of other organizations in meeting their material support needs which are provided by the Naval Material Command.

(2) Provide guidance to Navy and Marine Corps Commands, as required, on functional areas related to Naval Material Command acquisition and logistics support responsibilities and other technical or professional matters as appropriate.

§ 700.307. The Chief of Naval Personnel and the Chief, Bureau of Medicine and Surgery.

The Chief of Naval Personnel, under the command of the Chief of Naval Operations, shall command the Bureau of Naval Personnel. The Chief, Bureau of Medicine and Surgery, (who is also the Surgeon General of the Navy), under the command of the Chief of Naval Operations, shall command the Bureau of Medicine and Surgery. In addition to the tasks which may be assigned by the Chief of Naval Operations, they shall:

(a) Be responsive directly to the Commandant of the Marine Corps in meeting those particular needs of the United States Marine Corps which are required to be provided by their respective bureaus.

(b) Be responsive to the heads of other organizations in meeting the particular needs of such organizations which are provided by the Chief of Naval Personnel and the Chief, Bureau of Medicine and Surgery.

§ 700.308. Naval Inspector General.

There is in the Office of the Chief of Naval Operations the Office of the Naval Inspector General. The Naval Inspector General, when directed, shall inquire into and report upon any matter which affects the discipline or military efficiency of the Department of the Navy; however, the Secretary of the Navy shall direct inquiry when such matters are related to the Marine Corps. He shall make such inspections, investigations, and reports as the Secretary of the Chief of Naval Operations directs. The Naval Inspector General shall periodically propose programs of inspections to the Chief of Naval Operations and shall recommend additional inspections or investigations as may appear appropriate.

§ 700.309. Commander in Chief U.S. Atlantic Fleet.

(a) The Commander in Chief of U.S. Atlantic Fleet is a naval commander in chief of the Operating Forces of the Navy under the command of the Chief of Naval Operations. He shall command the U.S. Atlantic Fleet and is responsible for the administration, training, maintenance, support and readiness of the Atlantic Fleet including those forces temporarily assigned to the operational command of other commanders.

(b) The Commander in Chief U.S. Atlantic Fleet is a naval component commander of the unified command under the Commander in Chief, Atlantic.

(c) The organization of the Atlantic Fleet, the forces assigned and their employment shall be as specified by the Chief of Naval Operations except for the employment of forces assigned to the operational command of unified and specified commanders.

§ 700.310. Commander in Chief, U.S. Pacific Fleet.

(a) The Commander in Chief U.S. Pacific Fleet is a naval commander in chief of the Operating Forces of the Navy under the command of the Chief of Naval Operations. He shall command the U.S. Pacific Fleet and is responsible for the administration, training, maintenance, support and readiness of the Pacific Fleet, including those forces temporarily assigned to the operational command of other commanders.

(b) The Commander in Chief U.S. Pacific Fleet is a naval component commander of the unified command under the Commander in Chief, Pacific.

(c) The organization of the Pacific Fleet, the forces assigned and their employment shall be as specified by the Chief of Naval Operations except for the employment of forces assigned to the operational command of unified and specified commanders.

§ 700.311. Commander in Chief U.S. Naval Forces, Europe.

(a) The Commander in Chief U.S. Naval Forces, Europe is a naval commander in chief of the Operating Forces of the Navy under the command of the Chief of Naval Operations. He shall represent the Chief of Naval Operations for U.S. naval matters in the general areas of Europe, North Africa, and the Middle East. He shall command those forces assigned by the Chief of Naval Operations or by other naval commanders.

(b) The Commander in Chief U.S. Naval Forces, Europe is the naval component commander of the unified command under the Commander in Chief, U.S. European Command.

§ 700.312. Commander, Military Sealift Command.

(a) The Commander, Military Sealift Command is a naval commander of the Operating Forces of the Navy under the command of the Chief of Naval Operations. He shall provide ocean transportation for personnel and cargo of the Department of Defense (excluding that transported by units of the fleet) in accordance with policies and procedures of the Single Manager for Ocean Transportation (Secretary of the Navy) and the Secretary of Defense. He shall also operate ships in support of scientific projects and other programs for agencies or departments of the United States.

(b) The Military Sealift Command shall operate and maintain government owned ships and augment operational capability by shipping cargo and passengers on commercially operated ships, chartering ships, and exercising operational control over ships activated from National Defense Reserve Fleet to meet emergency needs.

§ 700.313. Commander, Naval Intelligence Command.

The Commander, Naval Intelligence Command, under the command of the Chief of Naval Operations, shall be responsible for directing and managing the activities of the Naval Intelligence Command to insure fulfillment of the intelligence, counterintelligence, investigative, and security requirements of the Department of the Navy.

§ 700.314. Commander, Naval Communications Command.

The Commander, Naval Communications Command, under the command of the Chief of Naval Operations, shall exercise overall responsibility throughout the Department of the Navy for the coordination of the provision, operation, and maintenance of adequate and secure naval communications.

§ 700.315. Oceanographer of the Navy.

The Oceanographer of the Navy, under the command of the Chief of Naval Operations, shall act as the Naval Oceanographic Program Director under the policy direction of the Secretary of the Navy. He shall be responsible for an integrated and effective Naval Oceano-

graphic Program and the management of all national oceanographic facilities and efforts assigned to the Department of the Navy.

§ 700.316. Commander, Naval Weather Service Command.

The Commander, Naval Weather Service Command, under the command of the Chief of Naval Operations, shall insure that Depatment of the Navy meteorological requirements and Department of Defense requirements for oceanographic analyses and forecasts are met. He shall provide technical guidance in meteorological matters throughout the naval service.

§ 700.317. Commander, Naval Security Group Command.

The Commander, Naval Security Group Command, under the command of the Chief of Naval Operations, shall be responsible for the provision, operation, and maintenance of an adequate Naval Security Group and shall perform cryptologic and related functions.

§ 700.318. Chief of Naval Training.

The Chief of Naval Training, under the command of the Chief of Naval Operations, shall be responsible for the training of Navy personnel, other than training assigned by the Chief of Naval Operations to other authorities, and for the training of Marine Corps aviation personnel.

§ 700.319. Chief of Naval Reserve.

The Chief of Naval Reserve, under the command of the Chief of Naval Operations, shall be responsible for the administration of Naval Reserve programs, the management of Naval Reserve resources, and for logistic support of the Marine Corps air program.

§ 700.320. Commandants of Naval Districts.

(a) The Commandants of Naval Districts, under the command of the Chief of Naval Operations, shall command assigned naval shore activities; exercise area coordination over all shore activities in the district; represent the Secretary of the Navy, the Chief of Naval Operations and other officials in such matters as may be assigned; execute responsibilities with respect to specified functions as assigned by Sea Frontier Commanders and Chief of Naval Reserve; administer Naval Reserve elements and naval reservists, as assigned; and coordinate public affairs matters throughout the lic affairs matters throughout the district.

(b) Naval districts within the continental United States are defined by statute (10 USC 5221).

§ 700.321. President Board of Inspection and Survey.

The President of the Board of Inspection and Survey, assisted by such other officers and such permanent and semipermanent sub-boards as may be designated by the Secretary of the Navy, shall:

(a) Conduct acceptance trials and inspections of all ships and service craft prior to acceptance for naval service.

(b) Conduct acceptance trials and inspections on one or more aircraft of each type or model prior to final acceptance for naval service.

(c) Examine at least once every three years, if practicable, each naval ship to determine its material condition and, if found unfit for continued service, report to higher authority.

(d) Perform such other inspections and trials of naval ships, service craft, and aircraft as may be directed by the Chief of Naval Operations.

Subpart D—The Commandant of the Marine Corps

§ 700.401. Senior Officer of the Marine Corps.

(a) The Commandant of the Marine Corps is the senior officer of the United States Marine Corps.

(b) While matters which directly concern the Marine Corps are under consideration by the Joint Chiefs of Staff, and with respect to such matters, the Commandant has coequal status with the members of the Joint Chiefs of Staff. He is responsible for keeping the Secretary of the Navy fully informed on these matters. In this capacity as a coequal member of the Joint Chiefs of Staff, he is responsible to the President and the Secretary of Defense for duties external to the Department of the Navy as prescribed by law.

§ 700.402. Succession to duties.

The Assistant Commandant of the Marine Corps, and then the officers of the Marine Corps, not restricted in the performance of duty, on duty at the headquarters of the Marine Corps in the order of their seniority, shall, unless otherwise directed by the President, perform the duties of the Commandant of the Marine Corps during his absence, disability, or in the event of a temporary vacancy in that office.

§ 700.403. Authority and responsibilities.

(a) The Commandant of the Marine Corps, under the direction of the Secretary of the Navy, shall command the United States Marine Corps, which shall include Headquarters, United States Marine Corps; the Operating Forces of the Marine Corps; Marine Corps Supporting Establishments and the Marine Corps Reserve.

(b) The Commandant of the Marine Corps advises the Secretary of the Navy on matters pertaining to the Marine Corps. He is directly responsible to the Secretary for the administration, discipline, internal organization, training, requirements, efficiency, and readiness of the Marine Corps; for the operation of the Marine Corps material support system; and the total performance of the Marine Corps. He shall command such shore activities as may be assigned by the Secretary, and is responsible to the Secretary for the utilization of resources by and the operating efficiency of all activities under his command. When performing these functions, the Commandant is not a part of the command structure of the Chief of Naval Operations. There must, however, be a close cooperative relationship between the Chief of Naval Operations, as the senior military officer of the Department of the Navy, and the Commandant, as the one having command responsibility over the Marine Corps.

(c) The Commandant of the Marine Corps is directly responsible to the Chief of Naval Operations for the organization, training, and readiness of those elements of the Operating Forces of the Marine Corps assigned to the Operating Forces of the Navy. Such Marine Corps forces, when so assigned, are subject to the command exercised by the Chief of Naval Operations over the Operating Forces of the Navy. Likewise, members or organizations of the Navy, when assigned to the Marine Corps, are subject to the command of the Commandant of the Marine Corps.

§ 700.404. Specific responsibilities.

In addition, the Commandant of the Marine Corps has the following specific responsibilities:

(a) To plan for and determine the support needs of the Marine Corps for equipment, weapons or weapons systems, materials, supplies, facilities, maintenance, and supporting services. This responsibility includes the determination of Marine Corps characteristics of equipment and material to be procured or developed, and the training required to prepare Marine Corps personnel for combat. It also includes the operation of the Marine Corps Material Support System.

(b) To budget for the Marine Corps, except as may be otherwise directed by the Secretary of the Navy.

(c) To develop, in coordination with other military services, the doctrines, tactics, and equipment employed by landing forces in amphibious operations.

(d) To formulate Marine Corps strategic plans and policies and participate in the formulation of joint and combined strategic plans and policies and related command relationships.

(e) To plan for and determine the present and future needs, both quantitative and qualitative, for personnel, including reserve personnel and civilian personnel, of the United States Marine Corps. This includes responsibility for leadership in maintaining a high degree of competence among Marine Corps officers and enlisted personnel and Marine Corps civilian personnel in necessary fields of specialization through education, training, and equal opportunities for personal advancement; and for leadership in maintaining the morale and motivation of Marine Corps personnel and the prestige of a career in the Marine Corps.

(f) To plan for and determine development requirements of the Marine Corps. To provide for the development, test, and evaluation of new weapon systems and equipment, to ensure that such

are adequate and responsive to immediate and long-range objectives and are within available resources. To provide direct staff assistance to the Assistant Secretary of the Navy (Research and Development) in the direction, review, and appraisal of the overall USMC RDT&E Program.

(g) To plan for and determine the needs for health care for personnel of the Marine Corps and their dependents.

§ 700.405. Composition of the Marine Corps.

(a) The major components of the regular establishment of the Marine Corps consist principally of the Headquarters of the Marine Corps, the Operating Forces, and the Supporting Establishment. In addition, there is another element of the Marine Corps, the Marine Corps Reserve.

(b) The Operating Forces of the Marine Corps include the Fleet Marine Forces, detachments afloat, and security forces. There are two Fleet Marine Forces: Fleet Marine Force, Atlantic, and Fleet Marine Force, Pacific. These Fleet Marine Forces are assigned to, and are integral to, the U.S. fleets as part of the Operating Forces of the Navy.

(c) The Supporting Establishment includes those Marine Corps facilities, such as Marine Corps schools, recruit depots, supply installations, bases, barracks, air stations and other miscellaneous small activities which train, maintain, and support the Operating Forces of the Marine Corps.

(d) The Marine Corps Reserve has as its mission to provide a trained force of qualified officers and enlisted personnel to be available for active duty in the U.S. Marine Corps in time of war or national emergency.

§ 700.406. Relationships between the Commandant of the Marine Corps and the Chief of Naval Material.

Formal operating relationships with respect to the efforts of determining needs and providing support between the Commandant of the Marine Corps and his organization and the Chief of Naval Material and his organization shall be governed by the following principles:

(a) The Commandant of the Marine Corps shall express to the Chief of Naval Material those Marine Corps material needs which are to be provided by the Naval Material Command. With respect to the development of material items, the Commandant of the Marine Corps shall specify the military performance required to meet Marine Corps needs.

(b) The Chief of Naval Material shall advise the Commandant of the Marine Corps as to the economic and technological feasibility of meeting such needs, and shall keep the Commandant informed of new capabilities to meet the needs of the Marine Corps which may or may not have been previously expressed. With respect to the development of material items, the Chief of Naval Material shall determine the technical effort necessary to satisfy the needs of the Marine Corps.

(c) The Commandant of the Marine Corps shall select the work to be done to satisfy the needs of the Marine Corps, based upon feasibility data and current estimates of the worth of a particular need in relation to other desirable needs, including, where necessary, the curtailment or cancellation of work already in progress in favor of work which offers greater promise or greater military worth.

(d) The Chief of Naval Material shall exercise appropriate supervision over accomplishment of the work selected, and shall ensure that resources available to him are efficiently utilized in meeting Marine Corps needs.

(e) Work being accomplished shall be reviewed concurrently by the Commandant of the Marine Corps from the viewpoint of readiness and military worth, and by the Chief of Naval Material from the viewpoint of progress and the efficient utilization of resources available to him.

§ 700.407. Serving with the Army by order of the President.

(a) When Marine Corps units are, by order of the President, detached for service with the Army, the Commandant of the Marine Corps is, for the time that the Marine Corps units are thus detached and for the purposes of administering the affairs of such units, responsible to the Secretary of the Army. The Commandant of the Marine Corps shall retain such control and jurisdiction over said detached forces as will enable him to make the necessary transfers of officers and men from and to the commands, and to exercise general supervision over all expenditures and supplies needed for the support of the Marine Corps forces so detached. He shall be responsible to the Secretary of the Army for the general efficiency and discipline of such units of the Marine Corps as are detached for service with the Army.

(b) Official correspondence which relates exclusively to the routine business of the Marine Corps and does not involve questions of administrative responsibility under the supervision of the commanding officer of the combined forces, and which is not a matter of a military nature pertaining to an individual requiring the action of said commanding officer, shall be forwarded direct between the Headquarters of the Marine Corps and the senior Marine officer serving with the detached forces.

(c) All official correspondence regarding the personnel of the Marine Corps units on duty with the Army shall be addressed to the proper representative of the Marine Corps and forwarded via the Adjutant General of the Army.

Subpart E—The United States Coast Guard (When Operating As a Service of the Navy)

§ 700.501. Relationship and operation as a service in the Navy.

(a) Upon declaration of war or when the President directs, the Coast Guard shall operate as a service in the Navy, and shall be subject to the orders of the Secretary of the Navy. While so operating as a service in the Navy and to the extent practicable Coast Guard operations shall be integrated and uniform with Navy operations.

(b) Whenever the Coast Guard operates as a service in the Navy:

(1) Applicable appropriations of the Coast Guard to cover expenses shall be available for transfer to the Department of the Navy and supplemented, as required, from applicable appropriations of the Department of the Navy.

(2) Personnel of the Coast Guard shall be eligible to receive gratuities, medals, and other insignia of honor on the same basis as personnel in the naval service or serving in any capacity with the Navy.

§ 700.502. Commandant of the Coast Guard.

(a) The Commandant of the Coast Guard is the senior officer of the United States Coast Guard.

(b) When reporting in accordance with Section 3, Title 14, U.S. Code to the Secretary of the Navy, the Commandant of the Coast Guard will further report to the Chief of Naval Operations for military functions. The Chief of Naval Operations shall represent the Coast Guard as a member of the Joint Chiefs of Staff.

§ 700.503. Duties and responsibilities.

In exercising command over the Coast Guard while operating as a service of the Navy, the Commandant shall:

(a) Organize, train, prepare and maintain the readiness of the Coast Guard to function as a specialized service in the Navy for the performance of military missions, as directed.

(b) Plan for and determine the present and future needs of the Coast Guard, both quantitative and qualitative, for personnel, including reserve personnel.

(c) Budget for the Coast Guard, except as may be otherwise directed by the Secretary of the Navy.

(d) Plan for and determine the support needs of the Coast Guard for equipment, materials, weapons or weapons systems, supplies, facilities, maintenance, and supporting services.

(e) Exercise essential military administration of the Coast Guard. This includes, but is not limited to, such matters as security, discipline, intelligence, communications, personnel records and accounting conforming, as practicable, to Navy procedures.

(f) Enforce or assist in enforcing Federal laws on the high seas and on waters subject to the jurisdiction of the United States.

(g) Administer, promulgate and enforce regulations for the promotion of safety of life and property on the high seas and on waters subject to the jurisdiction of the United States. This applies to those matters not specifically delegated by law to some other executive department.

(h) Develop, establish, maintain and operate, with due regard to the requirements of national defense, aids to maritime navigation, ice breaking facilities, and rescue facilities for the promotion of

safety on and over the high seas and waters subject to the jurisdiction of the United States.

(i) Engage in oceanographic research on the high seas and in waters subject to the jurisdiction of the United States in coordination with the Office of the Oceanographer of the Navy.

(j) Continue in effect under the Secretary of the Navy those other functions, powers and duties vested in him by appropriate orders and regulations of the Secretary of Transportation on the day prior to the effective date of transfer of the Coast Guard to the Department of the Navy until specifically modified or terminated by the Secretary of the Navy.

Subpart F—Commanders in Chief and Other Commanders

§ 700.601. Titles of commanders.

(a) The commander of a principal organization of the Operating Forces of the Navy, as determined by the Chief of Naval Operations, or the officer who has succeeded to such command as provided elsewhere in these regulations, shall have the title "Commander in Chief." The name of the organization under his command shall be added to form his official title.

(b) The commander of each other organization of units of the Operating Forces of the Navy, or organization of units of shore activities, shall have the title "Commander," "Commandant," "Commanding General," or other appropriate title. The name of the organization under his command shall be added to form his official title.

§ 700.602. Responsibility and authority of a commander.

(a) A commander shall be responsible for the satisfactory accomplishment of the mission and duties assigned to his command. His authority shall be commensurate with his responsibilities. Normally, he shall exercise authority through his immediate subordinate commanders; but he may communicate directly with any of his subordinates.

(b) A commander shall insure that subordinate commands are fully aware of the importance of strong, dynamic leadership and its relationship to the overall efficiency and readiness of naval forces. A commander shall exercise positive leadership and actively develop the highest qualities of leadership in persons with positions of authority and responsibility throughout his command.

(c) Subject to orders of higher authority, a commander shall issue such regulations and instructions as may be necessary for the proper administration and operation of his command.

(d) A commander shall hold the same relationship to his flagship, or to a shore activity of his command in which his headquarters may be located, in regard to its internal administration and discipline, as to any other ship or shore activity of his command.

§ 700.603. To announce assumption of command.

Upon assuming command, a commander shall so advise appropriate superiors, and the units of his command. When appropriate to his command he shall also advise the senior commanders of other United States armed services and officials of other Federal agencies and foreign governments located within the area encompassed by his command, concerning his assumption of command.

§ 700.604. Readiness.

A commander shall take all practicable steps to maintain his command in a state of readiness to perform its mission. In conformity with the orders and policies of higher authority, he shall:

(a) Organize the forces and resources under his command and assign duties to his principal subordinate commanders.

(b) Prepare plans for the employment of his forces to meet existing and foreseeable situations.

(c) Collaborate with the commanders of other United States armed services and with appropriate officials of other Federal agencies and foreign governments located within the area encompassed by his command.

(d) Maintain effective intelligence and keep himself informed of the political and military aspects of the national and international situation.

(e) Make, or cause to be made, such inspections as necessary to ensure the readiness, effectiveness, and efficiency of the components of his command.

§ 700.605. Observance of international law.

At all times a commander shall observe, and require his command to observe, the principles of international law. Where necessary to fulfillment of this responsibility, a departure from other provisions of Navy Regulations is authorized.

§ 700.606. Keeping immediate superior informed.

A commander shall keep his immediate superior appropriately informed of:

(a) The organization of his command, the prospective and actual movements of the units of his command, and the location of his headquarters.

(b) Plans for employment of his forces.

(c) The condition of his command and of any required action pertaining thereto which is beyond his capacity or authority.

(d) Intelligence information which may be of value.

(e) Any battle, engagement, or other significant action, involving units of his command.

(f) Any important service or duty performed by persons or units of his command.

(g) Unexecuted orders and matters of interest upon being relieved of command.

§ 700.607. Organization of a staff.

(a) The term "staff" shall be construed to mean those officers and other designated persons assigned to a commander to assist him in the administration and operation of his command.

(b) The officer detailed as chief of staff and aide to a fleet admiral or admiral normally shall be a vice admiral or a rear admiral. The officer detailed as chief of staff and aide to a vice admiral or rear admiral shall normally be a rear admiral or a captain. The detailing of a vice commander or a deputy to a commander shall be reserved for selected commanders. An officer detailed as chief staff officer to another officer shall normally not be of the same grade.

(c) The staff shall be organized into such divisions as may be prescribed by the commander concerned or by higher authority. These divisions shall conform in nature and designation, as practicable and as appropriate, to those of the staffs of superiors.

(d) The staff of a flag or general officer may include one or more personal aides.

§ 700.608. Authority and responsibilities of officers of a staff.

(a) The chief of staff and aide or chief staff officer, under the commander, shall be responsible for supervising and coordinating the work of the staff and shall be kept informed of all matters pertaining to that work. All persons attached to the staff, except a vice commander or deputy responsible directly to the commander, shall be subordinate to the chief of staff and aide or chief staff officer while he is executing the duties of his office.

(b) The officers of a staff shall be responsible for the performance of those duties assigned to them by the commander and shall advise him on all matters pertaining thereto. In the performance of their staff duties they shall have no command authority of their own. In carrying out such duties, they shall act for, and in the name, of the commander.

§ 700.609. Administration and discipline-staff embarked.

In matters of general discipline, the staff of a commander embarked and all enlisted persons serving with the staff shall be subject to the internal regulations and routine of the ship. They shall be assigned regular stations for battle and emergencies. Enlisted persons serving with the staff shall be assigned to the ship for administration and discipline, except in the case of staffs embarked for passage only, and provided in that case that an organization exists and is authorized to act for such purposes.

§ 700.610. Administration and discipline—staff based ashore.

When a staff is based ashore the enlisted persons serving with the staff shall, when practicable, be assigned to an appropriate activity for purposes of admin-

istration and discipline. The staff officers may be similarly assigned. Members of a staff assigned for any purpose to a command or activity shall conform in matters of general discipline to the internal regulations and routine of the command or activity.

§ 700.611. Administration and discipline—staff unassigned to an administrative command.

(a) When it is not practicable to assign enlisted persons serving with the staff of a commander to an established activity for administration and discipline, the commander may designate an officer of his staff to act as the commanding officer of such persons and shall notify the Judge Advocate General and the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, of his action.

(b) If the designating commander desires the commanding officer of staff enlisted personnel to possess authority to convene courts-martial, he should request the Judge Advocate General to obtain such authorization from the Secretary of the Navy.

§ 700.612. Administration and discipline—separate and detached command.

Any flag or general officer in command, any officer authorized to convene general courts-martial, or the senior officer present may designate organizations which are separate or detached commands. Such officer shall state in writing that it is a separate or detached command and shall inform the Judge Advocate General of the action taken. If authority to convene courts-martial is desired for the commanding officer or officer in charge of such separate or detached command, the officer designating the organization as separate or detached shall request the Judge Advocate General to obtain authorization from the Secretary of the Navy.

Subpart G—The Commanding Officer

§ 700.701. Applicability.

In addition to commanding officers, the provisions of this chapter shall apply, where pertinent, to aircraft commanders, officers in charge (including warrant officers and petty officers when so detailed) and those persons standing the command duty.

§ 700.702. Responsibility.

(a) The responsibility of the commanding officer for his command is absolute, except when, and to the extent, relieved therefrom by competent authority, or as provided otherwise in these regulations. The authority of the commanding officer is commensurate with his responsibility. While he may, at his discretion, and when not contrary to law or regulations, delegate authority to his subordinates for the execution of details, such delegation of authority shall in no way relieve the commanding officer of his continued responsibility for the safety, well-being, and efficiency of his entire command.

(b) A commanding officer who departs from his orders or instructions, or takes official action which is not in accordance with such orders or instructions, does so upon his own responsibility and shall report immediately the circumstances to the officer from whom the prior orders or instructions were received.

(c) The commanding officer shall be responsible for economy within his command. To this end he shall require from his subordinates a rigid compliance with the regulations governing the receipt, accounting, and expenditure of public money and materials, and the implementation of improved management techniques and procedures.

(d) The commanding officer and his subordinates shall exercise leadership through personal example, moral responsibility, and judicious attention to the welfare of persons under their control or supervision. Such leadership shall be exercised in order to achieve a positive, dominant influence on the performance of persons in the Department of the Navy.

§ 700.703. Presence of officer eligible to command.

(a) Except as otherwise provided herein or otherwise authorized by the Chief of Naval Operations or the Commandant of the Marine Corps, as appropriate, at least one officer, either in command or eligible to succeed to command, shall be present and ready for duty at each command (activity, unit, or office). In the absence of the commanding officer or the executive officer, or both, their duties shall devolve upon the officer next in rank and eligible to succeed to command who is attached to and present in the command. An officer detailed for a day's duty for the purpose of assuming the commanding officer's duties in his absence shall be known as the Command Duty Officer. Upon request of the officer senior in rank, eligible to succeed to command, who is attached to and present in the command, the Command Duty Officer shall defer to him. An officer who succeeds to command or is detailed to assume the commanding officer's duties during his temporary absence shall make no changes in the existing organization and shall endeavor to have the routine and other affairs of the command carried on in the usual manner.

(b) A superior, of flag or general grade, shall govern the presence of the officer in command or officer or officers eligible to succeed to command and ready for duty at each command or unit of the Operating Forces of the Navy and the Operating Forces of the Marine Corps. The commanding officer may under criteria or conditions prescribed by a superior of flag or general grade, assign officers not eligible to succeed to command and qualified enlisted men to serve as the Command Duty Officer.

(c) Superiors shall determine the need and govern the presence of the officer in command or an officer or officers eligible to succeed to command and ready for duty at commands, offices, or activities not of the Operating Forces of the Navy and not of the Operating Forces of the Marine Corps. Under conditions prescribed by a superior, officers not eligible to command and qualified enlisted men may be assigned a day's command duty.

§ 700.704. Organization of commands.

All commands and other activities of the Department of the Navy shall be organized and administered in accordance with law, the Navy Regulations, and the orders of competent authority, and all orders and instructions of the commanding officer shall be in accordance therewith.

§ 700.705. Effective organized force always present.

Under no circumstances shall any ship or station be left without an organized force that will be effective in any emergency, and consistent with existing requirements, capable of ensuring satisfactory operation.

§ 700.706. Relationship with executive officer.

The commanding officer shall keep the executive officer informed of his policies and normally shall issue all orders relative to the duties of the command through that officer. Normally, the commanding officer shall require that all communications of an official nature from subordinates to the commanding officer be transmitted through the executive officer.

§ 700.707. Relieving procedures.

(a) A commanding officer about to be relieved of his command shall:

(1) Inspect the command in company with his successor before the transfer is effected.

(2) In the case of a ship, and within other commands where appropriate, cause the crew to be exercised in his presence and in the presence of his relief at general quarters and general drills, unless conditions render it impracticable or inadvisable.

(3) Point out defects and peculiarities of the command and account for them to his relief.

(4) Deliver to his relief all unexecuted orders, all regulations and orders in force, and all official correspondence and information concerning the command and the personnel thereof as may be of service to his relief. He shall not remove the original records of his official correspondence, original letters, documents, or papers concerning the command and personnel thereof, but he may retain authenticated copies thereof.

(5) Deliver to his relief all documents required by these regulations to be either kept or supervised by the commanding officer. If a Navy post office is established within the command, he shall deliver to his relief a current audit of postal accounts and effects.

(6) Deliver all magazine and other keys in his custody to his relief.

(7) Cause an inventory and audit to be taken of all registered publications charged to the command, in accordance

with the provisions of the Registered Publications Manual.

(8) Submit reports of fitness of officers and sign all log books, journals, and other documents requiring his signature up to the date of his relief.

(9) At the time of turning over command call all hands to muster. The officer about to be relieved shall read his orders of detachment and turn over the command to his successor, who shall read his orders and assume command. At shore activities this procedure may be modified as appropriate.

(b) The officer relieved, although without authority after turning over the command, is, until his final departure, entitled to all the ceremonies and distinctions accorded him while in command.

(c) The accomplishment of a normal, routine transfer of command shall be reported by the officer who assumes command. For a command of the Operating Forces of the Navy, the report shall be addressed to the immediate superior with copies to the fleet commander in chief and intermediate superiors. For a command not of the Operating Forces of the Navy, the report shall be addressed to the immediate superior with copies to other superiors as appropriate.

(d) A report of a transfer of command that contains statements indicating the possible existence of unsatisfactory conditions, or adverse comments with respect to the state of readiness of the command, or its ability to perform its assigned mission, or any other non-routine information of direct concern to higher authority, shall contain the opinion of the succeeding officer in regard thereto, and such explanation by endorsement as the officer being relieved may deem necessary. For a command of the Operating Forces of the Navy the report shall be addressed to the Chief of Naval Operations via the chain of command with a copy direct to the Commander in Chief of the fleet concerned. For a command not of the Operating Forces of the Navy the report shall be addressed to immediate superior with copies direct to appropriate commands, bureaus, or offices as may have a direct interest. A copy shall be retained by each of the officers between whom the transfer of command takes place.

(e) When an officer detailed as commanding officer reports to a command having no regularly detailed commanding officer, the procedure prescribed in the preceding paragraphs of this article shall be followed, insofar as is consistent with the circumstances.

§ 700.708. Inspections, muster, and sighting of personnel.

(a) The commanding officer shall hold periodic inspections of the material of the command, not on weekends or holidays, to determine deficiencies and cleanliness. When the size of the command precludes completion of the inspection in a reasonable time, he shall designate zones to be inspected by heads of departments or other responsible officers, and he shall inspect at least one zone, alternating his zone(s) in order that he inspects the entire command at minimum intervals.

(b) The commanding officer shall ensure that, consistent with their employment, the personnel under his command present at all times a neat, clean and military appearance. To assist in attaining this standard of appearance he shall, in the absence of operational exigency, hold periodic personnel inspections. Saturday inspections may be held at sea and, in port and ashore, with personnel in duty status as participants. Otherwise, inspections shall not be held on weekends or holidays.

(c) Quarters or formations are for the purpose of ceremony, inspection, muster, instruction, or passing of orders and should be reserved for those occasions when purpose cannot otherwise be achieved.

(d) The commanding officer shall require a daily report of all persons confined, a statement of their offenses, and the dates of their confinement and release.

(e) The presence of all persons attached to the command shall be accounted for daily. Persons who have not been sighted by a responsible senior shall be reported absent.

(f) The prohibitions concerning weekend or holiday inspections do not apply to commands engaged in training reservists, and, to other commands with the consent of a superior.

§ 700.709. Unauthorized persons on board.

The commanding officer shall satisfy himself that there is no unauthorized person on board before proceeding to sea or commencing a flight.

§ 700.710. Control of passengers.

(a) Control of passage in and protracted visits to aircraft and ships of the Navy by all persons, within or without the Department of the Navy, shall be exercised by the Chief of Naval Operations.

(b) Nothing in this article shall be interpreted as prohibiting the senior officer present from authorizing the passage in ships and aircraft of the Navy by such persons as he judges necessary in the public interest or in the interest of humanity. The senior officer present shall report the circumstances to the Chief of Naval Operations when he gives such authorization.

§ 700.711. Authority over passengers.

Except as otherwise provided in these regulations or in orders from competent authority, all passengers in a ship or aircraft of the naval service are subject to the authority of the commanding officer and shall conform to the internal regulations and routine of the ship or aircraft. The commanding officer of such ship or aircraft shall take no disciplinary action against a passenger not in the naval service, other than that authorized by law; but he may, when he deems such action to be necessary for the safety of the ship or aircraft or of any persons embarked, subject a passenger not in the naval service to such restraint as the circumstances require until such time as delivery to the proper authorities is possible. A report of the matter shall be made to an appropriate superior of the passenger.

§ 700.712. Relations with organizations and military personnel embarked for passage.

(a) Personnel of the naval service, and other United States armed forces or services, and foreign armed forces are subject to the orders of the commanding officer of the ship or aircraft commander. The provisions of this article shall be applied to organizations and personnel of foreign armed forces, insofar as is feasible, with regard for their customs and traditions.

(b) The commanding officer of the ship or the aircraft commander shall respect the identity and integrity of organizational units; and

(1) Shall have all orders to personnel given through their respective chains of command insofar as practicable.

(2) Shall require that personnel wear the uniform which corresponds as nearly as practicable to the uniform prescribed for ship's company.

(3) May require enlisted persons to perform their proportionate share of mess, watch, police, and guard duty whenever he deems it advisable to divide those duties among personnel on board.

(4) May require personnel, when in his opinion an emergency exists, to perform such duties as their special knowledge and skill may enable them to perform.

(5) Has the power and authority to order an offender placed in naval or military custody as he considers desirable, but in all cases where the offender is to be disembarked for disciplinary action by military authority, he shall be placed in military custody on board the ship or aircraft, if practicable.

(c) If the investigation indicates that such person has committed or attempted to commit an offense punishable under the authority of the commanding officer, the latter shall take such action as he deems necessary.

(d) If the investigation indicates that such a person is a fugitive from justice, or has committed or attempted to commit an offense which requires actions beyond the authority of the commanding officer, he shall, at the first opportunity, deliver such person, with full descriptive data, fingerprints, and a statement of the circumstances to the proper civil authorities.

(e) A report shall be made promptly to the Secretary of the Navy, in all cases under paragraph 4 of this article, and in other cases where appropriate.

§ 700.714. Rules for visits.

(a) Commanding officers are responsible for the control of visitors to their commands and shall comply with the relevant provisions of the Department of the Navy Security Manual for Classified Information and other pertinent directives.

(b) Commanding officers shall take such measures and impose restrictions on visitors as necessary to safeguard the classified material under their jurisdiction. Arrangements for general visiting shall always be based on the assumption that foreign agents will be among the visitors.

(c) Commanding officers and others officially concerned shall exercise reasonable care to safeguard the persons and property of visitors to naval activities as well as taking those necessary precautions to safeguard the persons and property within his command.

§ 700.715. Dealers, tradesmen, and agents.

(a) In general, dealers or tradesmen or their agents shall not be admitted within a command, except as authorized by the commanding officer:

(1) To conduct public business.

(2) To transact specific private business with individuals at the request of the latter.

(3) To furnish services and supplies which are necessary and are not otherwise, or are insufficiently, available to the personnel of the command.

(b) Personal commercial solicitation and the conduct of commercial transactions are governed by policies of Department of Defense.

§ 700.716. Marriages on board.

The commanding officer shall not perform a marriage ceremony on board his ship or aircraft. He shall not permit a marriage ceremony to be performed on board when the ship or aircraft is outside the territory of the United States, except:

(a) In accordance with local laws and the laws of the state, territory, or district in which the parties are domiciled, and

(b) In the presence of a diplomatic or consular official of the United States, who has consented to issue the certificates and make the returns required by the consular regulations.

§ 700.717. Postal matters.

Commanding officers shall ensure that mail and postal funds are administered in accordance with instructions issued by the Postmaster General and approved for the naval service by the Chief of Naval Operations, and instructions issued by the Chief of Naval Operations or the Chief of Naval Personnel or the Commandant of the Marine Corps as appropriate; and that postal clerks or other persons authorized to handle mail perform their duties strictly in accordance with those instructions.

§ 700.718. Safeguarding official funds.

In the event of the death, unauthorized absence, or mental incapacity as determined by the commanding officer on advice of a medical officer, of a person charged with pecuniary responsibility for official funds or Government property, or if it is necessary to relieve him for any cause, including arrest or suspension, the commanding officer shall take immediate steps to safeguard such funds or property in accordance with the procedures prescribed by the Comptroller of the Navy and other competent authority.

§ 700.719. Deficit or excess of public money or property.

(a) In all cases involving a deficit or excess of public money in the custody of a person under his command, except in those cases where adjustments in accounting are authorized by the Secretary of the Navy, the commanding officer shall immediately:

(1) Request investigation by the Naval Investigative Service, other military agencies, or other Federal authority, if the circumstances warrant.

(2) Notify the Navy Accounting and Finance Center, the Chief of Naval Operations and Commander, Naval Supply Systems Command or the Commandant of the Marine Corps as appropriate, and appropriate superiors.

(3) Recommend or convene a Judge Advocate General Manual investigation or a court of inquiry to determine the facts.

(b) Judge Advocate General Manual investigations and courts of inquiry in these cases shall include in the records of their proceedings the testimony of such investigators as may have been employed in each case, and shall render an opinion as to whether or not there exist indications of criminal guilt on the part of the custodians of the money or of other persons.

(c) In cases involving a deficit or excess of public property, similar action shall be taken or, when appropriate, the commanding officer shall cause a survey to be made.

§ 700.720. Deaths.

The commanding officer, in the event of death of any person within his command, shall ensure that the cause of death and the circumstances under which death occurred are established, and the appropriate casualty report is submitted.

§ 700.721. The American National Red Cross.

(a) Pursuant to the request of the Secretary of the Navy and subject to such instructions as he may issue, the American National Red Cross is authorized to conduct a program of welfare, including social, financial, and medical and dental aid, for naval personnel; to assist in matters pertaining to prisoners of war; and to provide such other services as are appropriate functions for the Red Cross. The American National Red Cross is the only volunteer society authorized by the Government to render medical and dental aid to the armed forces of the United States. Other organizations desiring to render medical and dental aid may do so only through the Red Cross.

(b) Requests for Red Cross services shall be made to the Chief of Naval Personnel or the Commandant of the Marine Corps or, in the case of medical services, to the Chief, Bureau of Medicine and Surgery.

(c) Activities and personnel of the American National Red Cross in areas subject to naval jurisdiction shall conform to such administrative regulations as may be prescribed by appropriate naval authority.

(d) Red Cross personnel shall be considered to have the status of commissioned officers, subject to such restrictions as may be imposed by the Chief of Naval Personnel or the Commandant of the Marine Corps.

§ 700.722. Observance of Sunday.

(a) Except by reason of necessity or in the interest of the welfare and morale of the command, the performance of work shall not be required on Sunday. Except by reason of necessity, ships shall not be sailed nor units of aircraft or troops be deployed on Sunday. The provisions of this paragraph need not apply to commands engaged in training reserve components of the Navy and the Marine Corps.

(b) Divine services shall be conducted on Sunday if possible. All assistance and encouragement shall be given to chaplains in the conduct of these services, and music shall be made available, if practicable. The chaplain shall be permitted to conduct public worship according to the manner and forms of the church of which he is a member. A suitable space shall be designated and properly rigged for the occasion, and quiet shall be maintained throughout the vicinity during divine services. The religious preferences and the varying religious needs of individuals shall be recognized, respected, encouraged, and ministered to as practicable. Daily routine in ships and activities shall be modified on Sunday as practicable to achieve this end.

(c) When there is no chaplain attached to the command, the commanding officer shall engage the services of any naval or military chaplain who may be available; or, in failing in this, shall, when practicable, invite and may remunerate a civilian clergyman to conduct religious services. Services led by laymen are encouraged. Provision shall be made for sending and receiving church parties as appropriate and practicable.

§ 700.723. Publishing and posting orders and regulations.

(a) In accordance with Article 137 of the Uniform Code of Military Justice the articles specifically enumerated therein shall be carefully explained to each enlisted person:

(1) At the time of entrance on active duty or within six (6) days thereafter,

(2) Again after completion of six months active duty; and

(3) Again upon the occasion of each reenlistment.

(b) A text of the articles specifically enumerated in Article 137 of the Uniform Code of Military Justice shall be posted in a conspicuous place or places, readily accessible to all personnel of the command.

(c) Instructions concerning the Uniform Code of Military Justice and appropriate articles of Navy Regulations shall be included in the training and educational program of the command.

(d) Such general orders, orders from higher authority and other matters which the commanding officer considers of interest to the personnel or profitable for them to know shall be published to the command as soon as practicable. Such matters shall also be posted in whole or in part, in a conspicuous place or places readily accessible to personnel of the command.

(e) Upon the request of any person on active duty in the armed services, the following publications shall be made available for his personal examination:

(1) A complete text of the Uniform Code of Military Justice,

(2) Manual for Courts-Martial,

(3) Navy Regulations,

(4) Manual of the Judge Advocate General,

(5) Marine Corps Manual (for Marine Corps personnel),

(6) Manual of the Bureau of Naval Personnel (for Navy personnel), or Marine Corps Personnel Manual (for Marine Corps personnel).

§ 700.724. Maintenance of logs.

(a) A deck log and an engineering log shall be maintained by each ship in commission and by such other ships and craft as may be designated by the Chief of Naval Operations.

(b) A quartermaster's notebook and a magnetic compass record shall be maintained as adjuncts to the deck log. An engineer's bell book shall be maintained as an adjunct to the engineering log.

(c) The Chief of Naval Operations shall prescribe regulations governing the contents and preparation of the deck and engineering logs and adjunct records.

§ 700.725. Status of logs.

The deck log, the engineering log, the quartermaster's notebook, the magnetic compass record, and the engineer's bell book shall each constitute an official record of the command.

§ 700.726. Records.

The commanding officer shall require that records relative to personnel, material, and operations as required by current instructions are maintained properly by those responsible therefor.

§ 700.727. Welfare of personnel.

The commanding officer shall:

(a) Use all proper means to foster high morale, and to develop and strengthen the moral and spiritual well-being of the personnel under his command, and ensure that chaplains are provided the necessary logistic support for carrying out the command's religious program.

(b) Maintain a satisfactory state of health and physical fitness of the personnel under his command.

(c) Afford an opportunity, with reasonable restrictions as to time and place, for the personnel under his command to make requests, reports, or statements to him, and shall ensure that they understand the procedures for making such requests, reports, or statements.

(d) Ensure that noteworthy performances of duty of personnel under his command receive timely and appropriate recognition and that suitable notations are entered in the official records of the individuals.

(e) Ensure that timely advancement in rating of enlisted persons is effected in accordance with existing instructions.

§ 700.728. Training and education.

The commanding officer shall:

(a) Endeavor to increase the specialized and general professional knowledge of the personnel under his command by the frequent conduct of drills, classes, and instructions, and by the utilization of appropriate fleet and service schools.

(b) Encourage and provide assistance and facilities to the personnel under his command who seek to further their education in professional or other subjects.

(c) Afford frequent opportunities to the executive officer, and to other officers of the ship as practicable, to improve their skill in ship handling.

(d) Require those lieutenants (junior grade) and first lieutenants who have less than 2 years commissioned or warrant service, and all ensigns and second lieutenants:

(1) To comply with the provisions prescribed for their instruction by the Chief of Naval Operations, the Commandant of the Marine Corps, or other appropriate authorities.

(2) To receive appropriate practical instruction, as the commanding officer deems advisable and to be detailed to as many duties successively as may be practicable.

(e) When practicable, designate a senior officer or officers to act as advisers to junior officers. These senior officers shall assist junior officers to a proper understanding of their responsibilities and duties, and shall endeavor to cultivate in them officer-like qualities, a sense of loyalty and honor, and an appreciation of naval customs and professional ethics.

§ 700.729. Delivery of personnel to civil authorities and service of subpoena or other process.

(a) Commanding officers or other persons in authority shall not deliver any person in the naval service to civil authorities except as provided by the Manual of the Judge Advocate General.

(b) Commanding officers are authorized to permit the service of subpoena on other process as provided by the Manual of the Judge Advocate General.

§ 700.730. Delivery of orders to personnel.

The commanding officer shall not withhold any orders or other communications received from higher authority for any person under his command, except for good and sufficient reasons, which he shall at once report to such higher authority. Communications of a personal nature may be withheld by a commanding officer for good reason until completion of mission or duty.

§ 700.731. Use and transportation of marijuana, narcotics, and drugs.

(a) The commanding officer shall conduct a rigorous program to prevent the illegal introduction, transfer, possession or use of marijuana, narcotics, or other controlled substances as defined in these regulations. The program shall include publicity and instruction covering:

(1) The dangers involved in drug abuse,

(2) The Federal, state, and local criminal liabilities which may result from introduction, possession, transfer, or use, including penalties under the Uniform Code of Military Justice, and other foreign law to which individuals may be subjected.

(3) The administrative measures, including discharge under other than honorable conditions, which may result.

(b) The commanding officer shall exercise utmost diligence in preventing illegal importation of marijuana, narcotics, or other controlled substances on board his command.

§ 700.732. Safety precautions.

The commanding officer shall require that persons concerned are instructed and drilled in all applicable safety precautions and procedures, that these are complied with, and that applicable safety precautions, or extracts therefrom, are posted in appropriate places. In any instance where safety precautions have not been issued or are incomplete, he shall issue or augment such safety precautions as he deems necessary, notifying, when appropriate, higher authorities concerned.

§ 700.733. Responsibility of a master of an in-service ship of the Military Sealift Command.

In an in-service ship of the Military Sealift Command, the master is responsible for the safety of his ship and all persons on board. He is responsible for the safe navigation and technical operation of his ship and has paramount authority over all persons on board. The master is responsible for the preparation of the abandond ship bill and has exclusive authority to order the ship abandoned. He has full authority to enforce appropriate laws of the United States and all applicable orders and regulations of the Navy, Military Sealift Command, and the Civil Service Commission.

§ 700.734. Relations with merchant seamen.

When in foreign waters, the commanding officer, with the approval of the senior officer present, may receive on board as supernumeraries for rations and passage:

(a) Distressed seamen of the United States for passage to the United States, provided they bind themselves to be amenable in all respects to Navy Regulations.

(b) As prisoners, seamen from merchant vessels of the United States, provided that the witnesses necessary to

substantiate the charges against them are received, or adequate means adopted to ensure the presence of such witnesses on arrival of the prisoners at the place where they are to be delivered to the civil authorities.

§ 700.735. Security of magazines and of dangerous materials.

(a) The commanding officer shall be the custodian of the keys to all spaces and receptacles containing projectiles, explosives, and radioactive material, and when fitted, of all magazine flood cocks; but he may designate such persons under his command to have custody of duplicate keys as he considers necessary. He shall prescribe conditions under which those persons may grant access to such spaces, but otherwise they shall not be opened without his consent.

(b) Keys affiliated with nuclear weapons shall be maintained and with custody as directed by orders from competent authority.

(c) He shall ensure that, except when undergoing test or overhaul, the flooding and sprinkling systems are ready for use at all times.

(d) He shall ensure that inflammable and other dangerous materials are stored and handled in a safe manner, and, when conditions warrant, he himself shall be the custodian of the keys to the spaces involved.

§ 700.736. Physical security.

(a) The commanding officer shall take action to protect and maintain the security of the command from the dangers of attack, sabotage or other actions of subversive or militant groups or of any person with intent to do harm.

(b) The commanding officer shall take action to protect and maintain the security of the command against dangers from fire, windstorms, or other acts of nature.

§ 700.737. Effectiveness for service.

The commanding officer shall:

(a) Exert every effort to maintain his command in a state of maximum effectiveness for war or other service consistent with the degree of readiness as may be prescribed by proper authority. Effectiveness for service is directly related to state of personnel and material readiness.

(b) Make himself aware of the progress of any repairs, the status of spares, repair parts and other components, personnel readiness and other factors or conditions that could lessen the effectiveness of his command. When the effectiveness is lessened appreciably it shall be reported to appropriate superiors.

§ 700.738. Request for inspection by Board of Inspection and Survey.

The commanding officer shall report to the Chief of Naval Operations without delay whenever the condition of his ship, or any department therein, is such as to require an inspection by the Board of Inspection and Survey. Such report shall be forwarded through official channels and bear the recommendations of the superiors concerned.

§ 700.739. Action with the enemy.

The commanding officer shall:

(a) Before going into battle or action communicate to his officers, if possible, his plans for battle or action and such other information as may be of operational value should any of them succeed to command.

(b) During action, station the executive officer where he can best aid the commanding officer, and, if practicable, where he could probably escape the effects of a casualty disabling the commanding officer, and yet would be able to assume command promptly and efficiently.

(c) During action, engage the enemy to the best of his ability. He shall not, without permission, break off action to assist a disabled ship or to take possession of a captured one.

(d) Immediately after a battle or action, repair damage so far as possible. exert every effort to prepare his command for further service, and make accurate, explicit, and detailed reports as required.

§ 700.740. Search by foreign authorities.

(a) The commanding officer shall not permit a ship under his command to be searched on any pretense whatsoever by any person representing a foreign state, nor permit any of the personnel within the confines of his command to be removed from the command by such person, so long as he has the capacity to repel such act. If force should be exerted to compel submission, he is to resist that force to the utmost of his power.

(b) Except as may be provided by international agreement, the commanding officer of a shore activity shall not permit his command to be searched by any person representing a foreign state, nor permit any of the personnel within the confines of his command to be removed from the command by such person, so long as he has the power to resist.

§ 700.741. Prisoners of war.

On taking or receiving prisoners of war, the commanding officer shall ensure that such prisoners are treated with humanity; that their personal property is preserved and protected; that they are allowed the use of such of their effects as may be necessary for their health; that they are supplied with proper rations; that they are properly guarded and deprived of all means of escape and revolt and that the applicable provisions of the 1949 Geneva Conventions relative to the treatment of prisoners of war are followed.

§ 700.742. Captured material.

On taking possession of any enemy ship, aircraft, installation, or other property or equipment, the commanding officer shall:

(a) Adopt all possible measures to prevent recapture.

(b) Secure or remove enemy personnel.

(c) Secure and preserve the logs, journals, signal books, codes and ciphers, charts, maps, orders, instructions, blueprints, plans, diaries, letters and other documents found, and forward or deliver them at the earliest possible moment to the designated authority.

(d) Preserve all captured enemy ordnance, machinery, fire-control equipment, electronic equipment, aviation equipment, and other property of possible intelligence value, unless destruction is necessary to prevent recapture; and make this material promptly available for intelligence evaluation or other authorized use.

§ 700.743. Casualty and damage.

(a) Immediately after its occurrence, the commanding officer shall submit a detailed report of the facts to the senior officer present, the Chief of Naval Operations or the Commandant of the Marine Corps, as appropriate, and other superiors when:

(1) A ship under his command touches the ground (except for landing ships or ships of a similar design making a landing without damage, or for a submarine resting on bottom as part of normal operations).

(2) A ship under his command has a collision or other serious accident.

(3) An aircraft under his command is involved in an accident which necessitates extensive repairs, or otherwise requires review or action by higher authority.

(b) As soon as possible, the commanding officer of a shore activity shall report a serious fire or other material casualty, or a serious personnel casualty within his command to the Chief of Naval Operations, or the Commandant of the Marine Corps, as appropriate, to other superiors in command, and to the senior officer present in the area.

§ 700.744. Loss of a ship.

(a) In the case of the loss of a ship, the commanding officer shall remain by her with officers and crew so long as necessary and shall save as much Government property as possible. Every reasonable effort shall be made to save the quartermaster's notebook, deck log, personnel diary and pay records of officers and crew, and other valuable papers.

(b) If it becomes necessary to abandon the ship, the commanding officer should be the last person to leave.

(c) The commanding officer shall:

(1) Take all possible precautions to protect the survivors and such Government property as has been saved.

(2) Report to the nearest United States naval or military command and request instructions and such assistance as is required.

(3) Report the circumstances to the Secretary of the Navy and the Chief of Naval Operations as soon as possible.

§ 700.745. Continuation of authority after loss of ship or aircraft.

When the crew of any naval vessel or naval aircraft is separated from their

vessel or aircraft because of its wreck, loss, or destruction, all the command and authority given to the officers of the vessel or aircraft shall remain in full force until the crew shall be regularly discharged or reassigned by competent authority.

§ 700.746. Hospital ship or medical aircraft.

(a) The commanding officer of a hospital ship or the commander of a medical aircraft shall be responsible for complying with the appropriate provisions of the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea of 12 August 1949. Where necessary to the fulfillment of this responsibility, a departure from other provisions of Navy Regulations is authorized.

(b) One of the central requirements under the 1949 Geneva Convention is that the ship or aircraft maintain a noncombatant status. Under this Convention, the following conditions do not deprive hospital ships or medical aircraft of their non-combatant status:

(1) The fact that the crews are armed for the maintenance of order, for their own defense or that of the sick and wounded.

(2) The presence on board of apparatus exclusively intended to facilitate navigation or unclassified communications.

(3) The discovery on board hospital ships or in sick bays of portable arms and ammunition taken from the wounded, sick and shipwrecked and not yet handed to proper authorities.

(4) The fact that humanitarian activities of hospital ships or of the crews extend to the care of the wounded, sick or shipwrecked persons.

(5) The transport of equipment and of personnel intended exclusively for medical duties, over and above normal requirements of the hospital ship.

§ 700.747. Status of boats.

(a) Boats shall be regarded in all matters concerning the rights, privileges, and comity of nations as part of the ship or aircraft to which they belong.

(b) In ports where war, insurrection or armed conflict exists or threatens, the commanding officer shall:

(1) Require that boats away from the ship or aircraft have some appropriate and competent person in charge.

(2) See that steps are taken to make their nationality evident at all times.

§ 700.748. Proper use of labor and materials.

(a) No Government materials shall be diverted from their intended use, except for proper purposes, nor shall any buildings or portions thereof be occupied or used by other than authorized persons.

(b) Civilian employees who are paid from appropriated funds shall not be permitted to perform, during the hours for which they are paid from such funds, any work other than that authorized to be done for the Government, or as otherwise prescribed by the Secretary of the Navy.

§ 700.749. Work, facilities, supplies, or services for other government departments, State or local governments, foreign governments, private parties and morale, welfare, and recreational activities.

(a) Work may be done for or facilities, supplies, or services furnished to departments and agencies of the Federal and State governments, local governments, foreign governments, private parties, and morale, welfare, and recreational activities with the approval of a commanding officer provided:

(1) The cost does not exceed limitations the Secretary of the Navy may approve or specify; and,

(2) In the case of private parties, it is in the interest of the government to do so and there is no issue of competition with private industry; and,

(3) In the case of foreign governments a disqualification of a government has not been issued for the benefits of this article.

(b) Work shall not be started nor facilities, supplies, or services furnished, morale, welfare, and recreational activities not classified as instrumentalities of the United States, or state or local governments or private parties until funds to cover the estimated cost have been deposited with the commanding officer or unless otherwise provided by law.

(c) Work shall not be started nor facilities, supplies, or services furnished other Federal Government departments and agencies, or expenses charged to non-appropriated funds of morale, welfare, and recreational activities classified as instrumentalities of the United States until reimbursable funding arrangements have been made.

(d) Work, facilities, supplies, or services furnished non-appropriated fund activities classified as instrumentalities of the United States in the Navy Comptroller Manual shall be funded in accordance with regulations of the Comptroller of the Navy.

(e) Supplies or services may be furnished to naval vessels and military aircraft of friendly foreign governments (unless otherwise provided by law or international treaty or agreement):

(1) On a reimbursable basis without an advancement of funds, when in the best interest of the United States;

(i) Routine port services (including pilotage, tugs, garbage removal, linehandling, and utilities) in territorial waters or waters under United States control,

(ii) Routine airport services (including air traffic control, parking, servicing, use of runways),

(iii) Miscellaneous supplies (including fuel, provisions, spare parts, and general stores) but not ammunition. Supplies are subject to approval of the cognizant fleet or force commanders when provided overseas,

(iv) With approval of Chief of Naval Operations in each instance, overhauls, repairs, and alterations together with necessary equipment and its installation required in connection therewith, to vessels and military aircraft.

(2) Routine port and airport services may be furnished at no cost to the foreign government concerned where such services are provided by persons of the naval service without direct cost to the Department of the Navy.

(f) In cases of emergency involving possible loss of life or valuable property, work may be started or facilities furnished prior to authorization, or provision for payment, but in all such cases a detailed report of the facts and circumstances shall be made promptly to the Secretary of the Navy or the appropriate authority.

(g) Charges and accounting for any work, supplies, or services shall be as prescribed in the Navy Comptroller Manual.

§ 700.750. Relations with personnel of naval shipyard or station.

Except in matters coming within the security and safety regulations of the ship, the commanding officer shall exercise no control over the officers or employees of a naval shipyard or station where his ship is moored, unless with the permission of the commander of the naval shipyard or station.

§ 700.751. Movement of ships at a naval station.

(a) No ship or craft shall be moved or undergo dock trials during its stay at a naval station, except by direction or with the approval of the commanding officer of such station.

(b) A ship arriving at, or departing from, a naval station shall be furnished such assistance, including tugs, when available, as in the opinion of the commanding officer of the naval station or the ship may be necessary for her safe handling.

§ 700.752. Responsibility for safety of ships and craft at a naval station or shipyard.

(a) The commanding officer of a naval station or shipyard shall be responsible for the care and safety of all ships and craft at such station or shipyard not under a commanding officer or assigned to another authority, and for any damage that may be done by or to them. In addition, the commanding officer of a naval station or shipyard shall be responsible for the safe execution of work performed by his activity upon any ship located at that activity.

(b) It shall be the responsibility of the commanding officer of a ship in commission which is undergoing overhaul, or which is otherwise immobilized at a naval station or shipyard, to request such services as are necessary to ensure the safety of his ship. The commanding officer of the naval station or shipyard shall be responsible for providing requested services in a timely and adequate manner.

(c) When a ship or craft not under her own power is being moved by direction of the commanding officer of a naval station or shipyard, that officer shall be responsible for any damage that may result therefrom; the pilot or other person

designated for the purpose shall be in direct charge of such movement, and all persons on board shall cooperate with and assist him as necessary.

(d) When a ship operating under her own power is being drydocked, the commanding officer shall be fully responsible for the safety of his ship until the extremity of the ship first to enter the drydock reaches the dock sill and the ship is pointed fair for entering the drydock. The docking officer shall then take charge and complete the docking, remaining in charge until the ship has been properly landed, bilge blocks hauled, and the dock pumped down. In undocking, the docking officer shall assume charge when flooding the dock preparatory to undocking is started, and shall remain in charge until the extremity of the ship last to leave the dock clears the sill, and the ship is pointed fair for leaving the drydock, when the ship's commanding officer shall assume responsibility for the safety and control of the ship.

(e) If the ship is elsewhere than at a naval station or shipyard, the relationship between the Commanding officer and the supervisor of shipbuilding, or other appropriate official, shall be the same as that between the commanding officer and the commanding officer of a naval station or shipyard as specified in this article.

§ 700.753. Ships in drydock.

(a) The commanding officer of a ship in drydock shall be responsible for effecting adequate closure, during such periods as they will be unattended, of all openings in the ship's bottom upon which no work is being undertaken by the docking activity. The commanding officer of the docking activity shall be responsible for the closing, at the end of working hours, of all valves and other openings in the ship's bottom upon which work is being undertaken by the docking activity, when such closing is practicable.

(b) Prior to undocking, the commanding officer of a ship shall report to the docking officer any material changes in the amount and location of weights on board which have been made by the ship's force while in dock, and shall ensure, and so report, that all sea valves and other openings in the ship's bottom are properly closed. The level of water in the dock shall not be permitted to rise above the keel blocks prior to receipt of this report. The above valves and openings shall be tended during flooding of the dock.

(c) When a ship or craft, not in commission, is in a naval drydock, the provisions of this article shall apply, except that the commanding officer of the docking activity or his representative shall act in the capacity of the commanding officer.

§ 700.754. Pilotage.

(a) The commanding officer shall:

(1) Pilot the ship under all ordinary circumstances, but he may employ pilots whenever in his judgment such employment is prudent.

(2) Not call a pilot on board until the ship is ready to proceed.

(3) Not retain a pilot on board after the ship has reached her destination or point where pilot is no longer required.

(4) Give preference to licensed pilots.

(5) Pay pilots no more than the local rates.

(b) A pilot is merely an adviser to the commanding officer. His presence on board shall not relieve the commanding officer or any of his subordinates from their responsibility for the proper performance of the duties with which they may be charged concerning the navigation and handling of the ship. For an exception to the provisions of this paragraph, see "Rules and Regulations Covering Navigation of the Panama Canal and Adjacent Waters," which directs that the pilot assigned to a vessel in those waters shall have control of the navigation and movement of the vessel. Also see the provisions of these regulations concerning the navigation of ships at a naval shipyard or station, or in entering or leaving drydock.

§ 700.755. Safe Navigation and Regulations Governing Operation of Ships and Aircraft.

(a) The commanding officer is responsible for the safe navigation of his ship or aircraft except as prescribed otherwise in these regulations for ships at a naval shipyard or station in drydock, or in the Panama Canal. In time of war or armed conflict, or in exercises simulating war or armed conflict, competent authority may modify the use of lights or other safeguards required by law to prevent collisions at sea, in port, or in the air. In exercises, such modifications will be employed only when ships or aircraft clearly will not be hazarded.

(b) Professional standards and regulations governing ship handling, safe navigation, safe anchoring and related operational matters shall be promulgated by the Chief of Naval Operations.

(c) Professional standards and regulations governing the operation of naval aircraft and related matters shall be promulgated by the Chief of Naval Operations or the Commandant of the Marine Corps as appropriate.

§ 700.756. Duties of the prospective commanding officer of a ship.

(a) Except as may be prescribed by the Chief of Naval Operations, the prospective commanding officer of a ship not yet commissioned shall have no independent authority over the preparation of the ship for service by virtue of his assignment to such duty, until the ship is commissioned and transferred to his command. As the prospective commanding officer, he shall:

(1) Procure from the commander of the naval shipyard or the supervisor of shipbuilding the general arrangement plans of the ship, and all the pertinent information relative to the general condition of the ship and the work being undertaken on the hull, machinery, and equipment, upon reporting for duty.

(2) Inspect the ship as soon after reporting for duty as practicable, and frequently thereafter, in order to keep himself informed of the state of her preparation for service. If, during the course of these inspections, he notes an unsafe or potentially unsafe condition, he shall report such condition to the commander of the naval shipyard or the supervisor of shipbuilding and to his superior for resolution.

(3) Keep himself informed as to the progress of the work being done, including tests of equipment, and make such recommendations to the commander of the naval shipyard or the supervisor of shipbuilding as he deems appropriate.

(4) Ensure that requisitions are submitted for articles to outfit the ship which are not otherwise being provided.

(5) Prepare the organization of the ship.

(6) Make such reports as may be required by higher authority, and include therein a statement of any deficiency in material or personnel.

(b) If the prospective commanding officer does not consider the ship in proper condition to be commissioned at the time the commander of the naval shipyard or the supervisor of shipbuilding signifies his intention of transferring the ship to him, he shall report that conclusion with his reasons therefor, in writing, to the commander of the naval shipyard or the supervisor of shipbuilding and to the appropriate higher authority.

(c) If the ship is elsewhere than at a naval shipyard, the relationship between the prospective commanding officer and the supervisor of shipbuilding, or other appropriate official, shall be the same as that between the prospective commanding officer and the commander of a naval shipyard as specified in this article.

§ 700.757. Authority of the commanding officer or prospective commanding officer of a naval nuclear powered ship.

The Chief of Naval Operations shall be responsible for providing the commanding officer or prospective commanding officer of a naval nuclear powered ship with the authority and direction necessary to carry out his responsibilities for the safety of the ship and crew, and the health and safety of the general public in surrounding area.

§ 700.758. Inspection incident to commissioning of ships.

When a ship is to be commissioned, the authority designated to place such ship in commission shall, just prior to commissioning, cause an inspection to be made to determine the cleanliness and readiness of the ship to receive its crew and outfit. In the case of the delivery of a ship by a contractor, the above inspection shall precede acceptance of the ship. A copy of the report of this inspection shall be furnished the officer detailed to command the ship and to appropriate commands, bureaus or offices.

§ 700.759. Commissioning and assuming command.

A ship shall be transferred to the prospective commanding officer and placed in commission in accordance with the following procedure:

(a) The formal transfer shall be effected by the district commandant or his representative.

(b) As many of the officers and crew of the ship as circumstances permit, and a guard and music, shall be assembled and properly distributed on the quarterdeck or other suitable part of the ship.

(c) The officer effecting the transfer shall cause the national ensign and the proper insignia of command to be hoisted with the appropriate ceremonies, and shall turn the ship over to the prospective commanding officer.

(d) The prospective commanding officer shall read his orders, assume command, and cause the watch to be set.

§ 700.760. Preparing for sea after commissioning.

In preparing the ship for sea after commissioning, the commanding officer shall endeavor to discover and correct any defect or inadequacy in the crew or in the ship, her installations, equipment, ammunition, and stores; and shall ensure that all installations and equipment can be operated satisfactorily by the crew.

§ 700.761. Personnel organized and stationed.

Before departure for sea the commanding officer shall ensure that the officers and crew have been properly organized, stationed, and trained to cope effectively with any emergency that might arise in the normal course of scheduled operations.

§ 700.762. Entering a port or landing at a place not designated.

When a ship or aircraft enters a port or lands at a place not designated or permitted by instructions, the commanding officer shall promptly report to his immediate superior the cause for doing so, and an estimate of the delay which will be incurred. When such port or place is within foreign jurisdiction, the nearest United States diplomatic or consular representative, accredited to the government concerned, shall also be informed.

§ 700.763. Quarantine.

(a) The commanding officer or aircraft commander of a ship or aircraft shall comply with all quarantine regulations and restrictions, United States or foreign, for the port or area within which his ship or aircraft is located.

(b) Whether or not liable to quarantine, the commanding officer shall afford every facility to visiting health officers, United States or foreign, and shall give all information required by the latter, insofar as permitted by the requirements of military security.

(c) The commanding officer shall allow no intercourse with a port or area or with other ships or aircraft until he has consulted local health authorities when:

(1) Doubt exists as to the sanitary regulations or health conditions of the port or area.

(2) A quarantine condition exists aboard his ship or aircraft.

(3) Coming from a suspected port or area, or one actually under quarantine.

(d) No concealment shall be made of any circumstance that may subject a ship or aircraft of the Navy to quarantine.

(e) Should there appear at any time on board a ship or aircraft conditions which present a hazard of introduction of a communicable disease outside the ship or aircraft, the commanding officer or aircraft commander shall at once report the fact to the senior officer present, to other appropriate higher authorities and, if in port, to the health authorities having quarantine jurisdiction. He shall prevent all contacts likely to spread disease until pratique is received. The commanding officer of a ship in port shall hoist the appropriate signal.

§ 700.764. Customs and immigration inspections.

(a) The commanding officer or aircraft comander shall facilitate any proper examination which it may be the duty of a customs officer or an immigration officer of the United States to make on board the ship or aircraft under his command. He shall not permit a foreign customs officer or an immigation officer to make any examination whatsoever, except as hereinafter provided, on board the ship, aircraft, or boats under his command.

(b) When a ship or aircraft of the Navy or a public vessel manned by naval personnel and operating under the direction of the Department of the Navy is carrying cargo for private commercial account, such cargo shall be subject to the local customs regulations of the port, domestic or foreign, in which the ship or aircraft may be, and in all matters relating to such cargo, the procedure prescribed for private merchant vessels and aircraft shall be followed. Government-owned stores or cargo in such ship or aircraft not landed nor intended to be landed nor in any manner trafficked in, are, by the established precedent of international courtesy, exempt from customs duties, but a declaration of such stores or cargo, when required by local customs regulations, shall be made. Commanding officers shall prevent, as far as possible, disputes with the local authorities in such cases, but shall protect the ship or aircraft and the Government-owned stores and cargo from any search or seizure.

(c) Upon arrival from a foreign country, at the first port of entry in United States territory, the commanding officer, or the senior officer of ships or aircraft in company, shall notify the collector of the port. Each individual aboard shall, in accordance with customs regulations, submit a list of articles purchased or otherwise acquired by him abroad. Dutiable articles shall not be landed until the customs officer has completed his inspection.

(d) Commanding officers of naval vessels and aircraft transporting United States civilian and foreign military and civilian passengers shall satisfy themselves that the passenger clearance requirements of the Immigration and Naturalization Service are complied with upon arrival at points within the jurisdiction of the United States. Clearance for such passengers by an immigration officer is necessary upon arrival from foreign ports and at the completion of movements between any of the following: Continental United States (including Alaska and Hawaii), Canal Zone, Puerto Rico, Virgin Islands, Guam, American Samoa, or other outlying places subject to United States jurisdiction. Commanding officers prior to arriving shall advise the cognizant naval or civilian port authority of the aforementioned passengers aboard and shall detain them for clearance as required by the Immigration and Naturalization service.

(e) The provisions of this article shall not be construed to require delaying the movements of any ship or aircraft of the Navy in the performance of the assigned duty.

§ 700.765. Environmental pollution.

The commanding officer shall cooperate with local, state and other governmental authorities in the prevention, control and abatement of environmental pollution to the extent resources and operational considerations permit. He shall be aware of existing policies regarding pollution control and he should recommend remedial measures when appropriate.

§ 700.766. When acting singly.

When acting singly, the commanding officer shall conform to the applicable regulations for the senior officer present.

§ 700.767. Issue of personal necessaries.

(a) The commanding officer is authorized to direct, in writing, the issue of clothing and small stores to enlisted persons in a nonpay status, including those in debt to the Government, in such amount as he deems necessary for their health and comfort.

(b) He is likewise authorized to direct, in writing, the issue to such enlisted persons of certain other necessaries, including toilet articles and tobacco, in the manner and amount prescribed by the Commander Naval Supply Systems Command or the Commandant of the Marine Corps.

§ 700.768. Care of ships, aircraft, vehicles and their equipment.

The commanding officer shall cause such inspections and tests to be made and procedures carried out as are prescribed by competent authority, together with such others as he deems necessary, to ensure the proper preservation, repair, maintenance, and operation of any ship, aircraft, vehicle, and their equipment assigned to his command.

Subpart H—Precedence, Authority, and Command

§ 700.801. Officers of the naval service.

(a) Officers of the United States naval service shall be known as officers in the

line, officers in the staff corps, chief warrant officers, and warrant officers. Midshipmen are, by law, officers in a qualified sense and are classed as being in the line.

(b) Officers in the line of the Navy include the following officers in the grade of ensign and above:

(1) Line officers not restricted in the performance of duty.

(2) Limited duty officers designated for duty in line technical fields.

(3) Line officers restricted in the performance of duty designated for engineering duty; aeronautical engineering duty; and types of special duty which include cryptology, intelligence, public affairs, meteorology and oceanography/hydrography.

(c) Officers in the staff corps of the Navy include:

(1) Officers in the Medical, Supply, Chaplain, Civil Engineer, Judge Advocate General's, Dental, Medical Service, and Nurse Corps, not restricted in the performance of duty within their respective corps.

(2) Officers in staff corps designated for limited duty within their respective corps.

(d) In the Navy there are: chief warrant officers, W–4; chief warrant officers, W–3; chief warrant officers, W–2; and warrant officers, W–1. Chief warrant officers and warrant officers whose technical specialty is within the cognizance of a staff corps are classed as chief warrant officers or warrant officers in the staff corps. All other chief warrant officers and warrant officers are classed as in the line.

(e) Officers of the Marine Corps of and above the grade of second lieutenant are officers in the line and include those:

(1) Not restricted in the performance of duty.

(2) Designated for limited duty in appropriate technical fields.

(f) Chief warrant officers and warrant officers of the Marine Corps are classed as in the line.

(g) The term "line officer of the naval service" shall be construed to refer to line officers of both the Navy and the Marine Corps.

(h) Within the Manual for Courts-Martial, United States, 1969 (Revised Edition) and the Manual of the Judge Advocate General, the term "officer" includes chief warrant officers W–4, W–3, and W–2, but does not include a warrant officer W–1 unless the context indicates otherwise.

§ 700.802. Precedence of officers.

(a) The date of rank of an officer is that stated in his commission, or when no commission for his current grade has been issued to him, the date established by the Secretary of the Navy.

(b) All line officers of the same grade take precedence with each other, (except as provided for when a naval officer is serving as Chairman of the Joint Chiefs of Staff) according to their respective dates of rank, but when such officers have the same date of rank or have gained or lost numbers, their precedence shall be as indicated in the appropriate lineal lists maintained in accordance with law, and provided that the Assistant Commandant of the Marine Corps, if and when appointed to the grade of lieutenant general pursuant to 10 U.S.C. 5232 (a), ranks first for all purposes among the officers serving in that grade under that section.

(c) Line and staff corps officers of the naval service, when of the same grade, shall take precedence with all other line and staff corps officers of the same grade from the dates of rank stated in their commissions. Line officers and staff corps officers having the same date of rank shall take precedence with respect to other line and staff corps officers, respectively, in accordance with their lineal order as shown in the appropriate lineal lists. Staff corps officers having the same date of rank as their line running mates shall take precedence after their line running mates but ahead of all line and staff officers junior to their line running mates. When there are officers of more than one staff corps having the same line running mate and the same date of rank as their line running mate they shall take precedence in the following order:

(1) Officers in the Medical Corps.

(2) Officers in the Supply Corps.

(3) Officers in the Chaplain Corps.

(4) Officers in the Civil Engineer Corps.

(5) Officers in the Judge Advocate General's Corps.

(6) Officers in the Dental Corps.

(7) Officers in the Medical Service Corps.

(8) Officers in the Nurse Corps.

(d) Chief warrant officers (Grades W–2, W–3, and W–4) of the Navy or Marine Corps, in the same grade, take precedence with each other according to the dates of rank stated in their commissions. When the commissions of two or more of them are of the same date, they take precedence according to the order in which their names are shown in the appropriate lineal lists.

(e) Warrant officers (Grade W–1) of the Navy or Marine Corps take precedence with each other according to the dates of rank stated in their warrants. When the warrants of two or more of them are the same date, they take precedence according to the order in which their names are shown in the appropriate lineal lists.

(f) The details of computing precedence of officers of the reserve components shall be as prescribed by the Commandant of the Marine Corps or the Chief of Naval Personnel, as appropriate.

§ 700.803. Relative rank and precedence of officers of different services.

(a) Relative rank of grades of officers of the Army, Navy, Marine Corps, Air Force, and Coast Guard, whether on the active or retired lists, and of the National Oceanic and Atmospheric Administration and Public Health Service when serving with the military, is indicated in the following table:

Precedence, authority, and command

Navy	Marine Corps	Army and Air Force	Coast Guard	National Oceanic and Atmospheric Administration	Public Health Service
Admiral	General	General	Admiral		
Vice admiral	Lieutenant general	Lieutenant general	Vice admiral		
Rear admiral (upper half)	Major general	Major general	Rear admiral (upper half)	Rear admiral (upper half)	Surgeon General,[1] Deputy Surgeon General.
Rear admiral (lower half) and commodore.	Brigadier general	Brigadier general	Rear admiral (lower half) and commodore.	Rear admiral (lower half)	Assistant Surgeon[2] General.
Captain	Colonel	Colonel	Captain	Captain	Medical Director.[3]
Commander	Lieutenant colonel	Lieutenant colonel	Commander	Commander	Senior Surgeon.[3]
Lieutenant commander	Major	Major	Lieutenant commander	Lieutenant commander	Surgeon.[3]
Lieutenant	Captain	Captain	Lieutenant	Lieutenant	Senior Assistant Surgeon.[3]
Lieutenant (jg.)	First lieutenant	First lieutenant	Lieutenant (jg.)	Lieutenant (jg.)	Assistant Surgeon.[3]
Ensign	Second lieutenant	Second lieutenant	Ensign	Ensign	Junior Assistant Surgeon.[3]

[1] Surgeon General's grade corresponds to that of Surgeon General of the Army.
[2] May hold grade corresponding to major general or brigadier general.
[3] And other officers of same grade, with titles appropriate to their duties.

(b) The precedence of officers of the Army, Navy, Marine Corps, Air Force, Coast Guard, and Public Health Service of the same relative grade shall be in accordance with their respective dates of rank, the senior in date of rank taking precedence over the junior.

(c) When officers of the Army, Navy, Marine Corps, Air Force, Coast Guard, and Public Health Service, having the same or relative grade and the same date of rank, are serving together they shall have precedence according to the time each has served on active duty as a commissioned officer of the United States.

(d) When serving with the Army, Navy, Marine Corps, or Air Force, commissioned officers of the National Oceanic and Atmospheric Administration shall rank with and after officers of corresponding grade in the Army, Navy, Marine Corps, or Air Force of the same length of service in grade.

(e) A Public Health Service Officer in uniform may use, for the purpose of identification and address, the military or naval rank corresponding to the grade marking worn. An officer of the Public Health Service detailed for duty with the Navy, Marine Corps, Army, Air Force, Coast Guard or National Oceanic and Atmospheric Administration may use in official correspondence the title of military or naval rank corresponding to the grade marking worn.

§ 700.804. Precedence of an officer in command.

An officer, either of the line or of a staff corps, detailed to command by competent authority or who has succeeded to command has precedence over all officers or other persons attached to the command of whatever rank and whether they are of the line or of a staff corps.

§ 700.805. Precedence of the executive officer.

The executive officer, while in the execution of his duties as such, shall take precedence over all persons under the command of the commanding officer.

§ 700.806. Precedence on courts and boards.

The precedence established by these regulations shall be observed on all courts and boards.

§ 700.807. Precedence in processions on shore.

(a) Officers in processions on shore shall be placed in formation according to their grade but not necessarily according to their order of precedence in grade. All processions on shore where officers appear in an official capacity, and where formation is necessary, shall be regarded as military formations. The command thereof shall devolve upon the senior line officer in the formation, except when the commander or commanding officer of the unit in formation is a member of a staff corps, the senior officer in the formation who is a member of the same staff corps as the commander or commanding officer shall be in command thereof.

(b) When serving on shore with a mixed detachment composed of seamen and marines, the marines shall always be placed on the right in battalion or other infantry formation on occasions of ceremony.

§ 700.808. Title of officers holding acting appointments.

An officer holding an acting appointment shall have the title of his acting grade, and when such appointment is revoked, he shall resume the title of his actual grade.

§ 700.809. Titles and authority of certain officers.

(a) The Commander Naval Supply Systems Command, the Commander Naval Facilities Engineering Command, and the Chief of the Dental Division shall have, while so serving, the additional titles of Chief of Supply Corps, Chief of Civil Engineers, and Chief of Dental Corps, respectively.

(b) The Surgeon General, the Chief of Supply Corps, the Chief of Chaplains, the Chief of Civil Engineers, the Judge Advocate General, the Chief of the Dental Corps, the Chief of the Medical Service Corps, the Director of the Nurse Corps, shall be the principal advisors and sponsors on matters concerned with officers in their respective corps and enlisted personnel with ratings associated with the corps. Also, as heads of corps, they shall be spokesmen regarding professional matters with the military and civilian communities.

§ 700.810. Manner of addressing officers.

(a) Except as provided in paragraph 2, every officer in the naval service shall be designated and addressed in official communications by the title of his or her grade, preceding the name.

(b) In oral official communications, officers will be addressed by their grade except that officers of the Medical Corps, the Dental Corps and those officers of the Medical Service Corps and the Nurse Corps having doctoral degrees may be addressed as "Doctor" and officers of the Chaplain Corps may be addressed as "Chaplain". When addressing an officer whose grade includes a modifier, the modifier may be dropped.

(c) In written communications the name of the corps to which any staff corps officer belongs shall be indicated immediately after his name.

§ 700.811. Exercise of authority.

(a) All persons in the naval service on active service, and those on the retired list with pay, and transferred members of the Fleet Reserve and the Fleet Marine Corps Reserve, are at all times subject to naval authority. While on active service they may, if not on leave of absence except as noted below, on the sick list, taken into custody, under arrest, suspended from duty, in confinement, or otherwise incapable of discharging their duties, exercise authority over all persons who are subordinate to them.

(b) A person in the naval service, although on leave, may exercise authority:

(1) When in a naval ship or aircraft and placed on duty by the commanding officer or aircraft commander.

(2) When in a ship or aircraft of the armed services of the United States, other than a naval ship or aircraft, as the commanding officer of naval personnel embarked, or when placed on duty by such officer.

(3) When senior officer at the scene of a riot or other emergency, or when placed on duty by such officer.

§ 700.812. Authority over subordinates.

All officers of the naval service, of whatever designation or corps, shall have all the necessary authority for the performance of their duties and shall be obeyed by all persons, of whatever designation or corps, who are, in accordance with these regulations and orders from competent authority, subordinate to them.

§ 700.813. Delegation of authority.

The delegation of authority and the issuance of orders and instructions by a person in the naval service shall not relieve such person from any responsibility imposed upon him. He shall ensure that the delegated authority is properly exercised and that his orders and instructions are properly executed.

§ 700.814. Abuse of authority.

Persons in authority are forbidden to injure their subordinates by tyrannical or capricious conduct, or by abusive language.

§ 700.815. Contradictory and conflicting orders.

(a) An officer who diverts another from any service upon which he has been ordered by a common superior, or requires him to act contrary to the orders of such superior, or interferes with those under such superior's command, must immediately report his action to the officer whose orders he has contravened, and show that the public interest required such action. All orders under such circumstances shall be given in writing when possible.

(b) If an officer receives an order which annuls, suspends, or modifies one received from another superior, or one contrary to instructions or orders from the Secretary of the Navy, he shall exhibit his first orders, unless he has been instructed not to do so, and represent the facts in writing to the superior from whom the last order was received. If, after such representation, the officer from whom the last order was received should insist upon the execution of his order, it shall be obeyed. The officer receiving and executing such order shall report the circumstances to the superior from whom he received the original order.

§ 700.816. Authority of an officer in command.

An officer, either of the line or a staff corps, detailed to command by competent authority, has authority over all officers or other persons attached to the command, whatever their rank, and whether they are of the line or of a staff corps.

§ 700.817. Authority of an officer who succeeds to command.

(a) An officer who succeeds to command due to incapacity, death, departure on leave, detachment without relief, or absence due to orders from competent authority of the officer detailed to command has the same authority and responsibility as the officer whom he succeeds.

(b) An officer who succeeds to command during the temporary absence of the commanding officer shall make no changes in the existing organization, and shall endeavor to have the routine and other affairs of the command carried on in the usual manner.

(c) When an officer temporarily succeeding to command signs official correspondence, the word "Acting" shall appear below his signature.

§ 700.818. Authority of a vice commander or a deputy.

A vice commander or a deputy shall exercise command or control only over activities and matters specified in his orders or as directed by his superior.

§ 700.819. Authority of the commander or commanding officer of a base or station over visiting commands.

While at a naval base or naval station and not under the command of the naval base commander or naval station commanding officer, the officer in command or in charge of a ship, craft, unit of aircraft or troops shall conform to the orders of the naval base commander or naval station commanding officer related to common or specific services he may provide. Such common or specific services may inlude waterfront operations, airfield operations, security, fire protection, safety, defense, sanitation, recreation, and welfare.

§ 700.820. Authority over fleet aircraft at a naval station.

(a) Fleet aircraft personnel and aircraft units based on shore at a naval station shall constitute the Fleet Air Detachment at that station. Squadrons and larger tactical units of fleet aircraft, however, shall retain their identity as such, including command of all regularly assigned personnel.

(b) The senior officer in command of a unit of fleet aircraft based at a naval station shall have the title Commander Fleet Air Detachment. He shall coordinate the operations of units of fleet aircraft present when required for a common purpose. He shall require that personnel attached to such units conform to the orders of the commanding officer of the station in matters under the authority of the latter, including, insofar as operating conditions permit, the routine of the station. He shall make such special details of fleet personnel to assist the various departments of the station as may be determined to be necessary by higher authority.

§ 700.821. Authority of the commanding officer of a hospital ship.

(a) The naval hospital in a hospital ship embraces all persons attached to the hospital either for duty or for treatment, all activities within the ship which are devoted to the care or treatment of the sick or injured, and all parts of the ship which are used for the care and treatment of the sick or injured, as living quarters by persons attached to the hospital, or for the stowage of the supplies or equipment belonging to the hospital.

(b) The commanding officer of the naval hospital is under the command of the commanding officer of the hospital ship. The commanding officer of the ship shall normally limit the exercise of command over the naval hospital to such military matters as discipline, security, intelligence, communications, fire protection, watertight integrity, stability, preservation, and maintenance, and overall cleanliness with regard for the responsibility of the commanding officer of the naval hospital for the sanitary conditions of the naval hospital. Except as above stated, he shall not exercise control, within the hospital, over its administration or organization, including the expenditure or accountability of funds allotted the hospital, the assignment of personnel and work, and the establishment of technical methods and procedures, unless such control has been specifically delegated to him by competent authority. Nothing in this article shall be construed to prevent the appropriate assignment of a proportionate share of work of a general nature to personnel attached to the naval hospital.

§ 700.822. Authority of an officer of the Marine Corps over naval forces.

Officers of the Marine Corps may not command ships or naval shipyards. This article shall not be construed to prevent an officer of the Marine Corps, when so detailed by the Secretary of the Navy or a commander in chief, from having and exercising such authority as may be necessary to direct the operations of all forces assigned to him.

§ 700.823. Authority of officers embarked as passengers.

(a) The commanding officer of a ship or aircraft, not a flagship, with a flag officer eligible for command at sea embarked as a passenger shall be subject to the orders of such flag officer. Other officers embarked as passengers, senior to the commanding officer, shall have no authority over him.

(b) Officers embarked as passengers who are junior to the commanding officer, or commanding officer of the transport unit of a ship of the Military Sealift Command, if not on the staff of an officer also embarked, may be assigned to duty when the exigencies of the service render it necessary. The commanding officer or commanding officer of the transport unit shall be the judge of such necessity. Passengers thus assigned shall have the same authority as though regularly attached to the ship.

§ 700.824. Authority to place self on duty.

No officer can place himself on duty by virtue of his commission or warrant alone.

§ 700.825. Authority in a boat.

Except when embarked in a boat authorized by the Chief of Naval Operations to have an officer or petty officer in charge, the senior line officer (including commissioned warrant and warrant officers) eligible for command at sea has authority over all persons embarked therein, and is responsible for the safety and management of the boat.

§ 700.826. Authority and responsibility of a senior officer under certain circumstances.

(a) In the event of a riot or quarrel between persons in the naval service or in other circumstances not provided for in these regulations in which persons in the naval service are involved and the exercise of naval authority is necessary, the senior officer in the naval service at the scene shall assume command and take the action necessary, until relieved of this responsibility by competent authority. All persons in the naval service in the vicinity shall render prompt assistance and obedience to the officer thus engaged in the restoration of order.

(b) Should there be no commissioned officer or warrant officer at the scene, the senior petty officer or non-commissioned officer present shall assume command.

(c) The person who assumed command under the above circumstances shall have the authority to apprehend any person in the naval service if necessary.

§ 700.827. Authority and status of persons in the Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service.

Whenever, by order of the President, personnel of the Coast Guard and the National Oceanic and Atmospheric Administration, and officers of the Public Health Service, are serving as part of the naval service, they shall be subject to the laws, regulations, and orders which pertain to the Navy insofar as may be necessary for command discipline, and effective naval administration. Otherwise they shall continue to be subject to laws, regulations, and orders of their respective services. They shall have the same authority and control over officers and enlisted persons of the other services as that to which their grade, rank or rate entitles them in their respective services.

§ 700.828. Authority of officers with acting appointments.

An officer duly appointed to act in any grade shall, while serving under such appointment, have the same authority as if he held a commission in that grade.

§ 700.829. Authority of warrant officers, non-commissioned officers, and petty officers.

Chief warrant officers, warrant officers, non-commissioned officers, and petty officers shall have, under their superiors, all necessary authority for the proper performance of their duties, and they shall be obeyed accordingly.

§ 700.830. Authority of a sentry.

A sentry, within the limits stated in his orders, has authority over all persons on his post.

§ 700.831. Authority of juniors to issue orders to seniors.

No officer is authorized by virtue of his rank alone to give any order or grant any privilege, permission, or liberty to any officer his senior. A senior officer is not required to receive such order, privilege, permission, or liberty from his junior, unless such junior is at the time in command of the ship or other command to which the senior is attached, or in command or direction of the military expedition or duty on which such senior is serving, or as executive officer is executing an order of the commanding officer.

§ 700.832. Basis for details.

Appointments, details, transfers, and assignments shall be made on the basis of official records.

§ 700.833. Changes in details to duty.

No officer, except the senior officer present, shall change the detail of a person assigned by a superior to a specific duty without the permission of that superior. The senior officer present shall not change the detail of any person without good and sufficient reason and shall report all changes and the reasons for them to the superior without delay.

§ 700.834. Orders to active service.

(a) No person who is not on active service or leave of absence shall be ordered into active service or on duty without permission of the Commandant of the Marine Corps, or the Chief of Naval Personnel, except:

(1) In the case of a person on leave of absence by the officer who granted the leave or a superior.

(2) By the senior officer present on a foreign station.

(b) In the event that the senior officer present of a foreign station issues any orders as contemplated by this article, he shall report the facts, including the reasons for issuing such orders, to the Chief of Naval Personnel or the Commandant of the Marine Corps, without delay.

(c) Retired officers of the Navy and Marine Corps may be ordered to active service, with their consent, in time of peace. In time of war or a national emergency, such retired officers may, at the discretion of the Secretary of the Navy, be ordered to active service.

§ 700.835. Command of a task force.

A commander in chief and any other naval commander, may detail in command of a task force, or other task command, any eligible officer under his command whom he desires, and all other officers ordered to the task force or other task command shall be considered subordinate to the designated commander. All orders issued under the authority of this article shall continue in effect after the death or disability of the officer issuing them until revoked by his successor in command or by higher authority. The powers delegated to a commander by this article are not conferred on any other officer by virtue of the fact that he is senior officer present.

§ 700.836. Command of naval districts.

The officer detailed as commandant of a naval district shall be an officer of the line in the Navy, eligible for command at sea.

§ 700.837. Command of naval bases.

The officer detailed to command a naval base shall be an officer of the line in the Navy, eligible for command at sea.

§ 700.838. Command of naval shipyards.

The officer detailed to command a naval shipyard shall be trained in the technical aspects of building and repair of ships and shall have had substantial previous experience in the technical and management phases of such work. Such officer may have been designated for engineering duty.

§ 700.839. Command of ships and submarines.

(a) The officer detailed to command a commissioned ship shall be an officer of the line in the Navy eligible for command at sea.

(b) The officer detailed to command an aircraft carrier, an aircraft tender, or a ship with a primary task of operating or supporting aircraft shall be an officer of the line in the Navy, eligible for command at sea, designated as a naval aviator or naval flight officer.

(c) The officer detailed to command a submarine shall be an officer of the line in the Navy, eligible for command at sea, and qualified for command of submarines.

§ 700.840. Command of air activities.

(a) The officer detailed to command a naval aviation school, a naval air station, or a naval air unit organized for flight tactical or administrative purposes shall be an officer of the line in the Navy, designated as a naval aviator or naval flight officer, eligible for command at sea.

(b) The officer detailed to command a naval air activity of a technical nature on shore may be an officer of the line in the Navy not eligible for command at sea but designated as a naval aviator or naval flight officer or designated for aeronautical engineering duty.

(c) The officer detailed to command a Marine Corps aviation school, a Marine Corps air activity on shore or a Marine Corps air unit organized for flight tactical purposes shall be an officer of the Marine Corps, designated as a naval aviator or naval flight officer.

(d) An officer of the Navy shall not normally be detailed to command an aviation unit of the Marine Corps nor shall an officer of the Marine Corps normally be detailed to command an aviation unit of the Navy. Aircraft units of the Marine Corps may, however, be assigned to ships or to naval air activities in the same manner as aircraft units of the Navy and, conversely, aircraft units of the Navy may be so assigned to Marine Corps air activities. A group composed of aircraft units of the Navy and aircraft units of the Marine Corps may be commanded either by an officer of the Navy or Marine Corps.

§ 700.841. Multiservice commands.

(a) When different commands of the Army, Navy, Air Force, Marine Corps, and Coast Guard join or serve together, the officer highest in rank in the Army, Navy, Air Force, Marine Corps, or Coast Guard on duty there, who is otherwise eligible to command, commands all those forces unless otherwise directed by the President.

(b) An officer of the naval service in command of a unified, specified, joint, or combined command is not authorized to exercise operational control over U.S. naval forces not specifically assigned to him for operations, nor is he authorized to exercise authority as senior officer present or senior officer present afloat over such U.S. naval forces.

§ 700.842. Command of staff corps activities.

An officer in a staff corps shall be detailed to command only such activities as are appropriate to his corps.

§ 700.843. Detail of executive officer.

(a) The officer detailed as executive officer shall be the officer eligible to succeed to command and who, when practicable, is next in rank to the commanding officer. In the case of a naval hospital, a medical officer not next in rank may be detailed as executive officer by the Chief of Naval Personnel.

(b) When no officer has been detailed as executive officer by the Commandant of the Marine Corps or the Chief of Naval Personnel, as appropriate, or when the officer detailed is absent or incapable of performing the duties of his office, the commanding officer shall detail the senior line officer under his command and eligible to succeed to command as executive officer except that, if the commanding officer is a member of a staff corps, he may detail as executive officer the next senior officer in the appropriate staff corps.

§ 700.844. Detail of heads of department and other officers.

When no officer has been detailed by the Commandant of the Marine Corps, or the Chief of Naval Personnel, as head of a department or other subdivision of the command, or to specific duty within the department or subdivision, or when the officer so detailed is absent or incapable of performing his duty, the com-

manding officer may detail a suitable officer to perform such duty.

§ 700.845. Detail of persons performing medical or religious services.

Members of Medical, Dental, Chaplain, Medical Service, Nurse, or Hospital Corps shall be detailed or permitted to perform only such duties, in peace or war, as are related to medical, dental, or religious service and the administration of medical, dental, or religious units and establishments. Such duties are in accord with the permissible functions of the Geneva Conventions of August 12, 1949.

§ 700.846. Detail of women.

Women members of the naval service shall not be detailed to duty in aircraft that are engaged in combat missions nor shall they be detailed to ships of the Navy other than hospital ships and transports.

§ 700.847. Detail of enlisted persons for certain duties.

(a) Petty officers and noncommissioned officers shall not be detailed as messmen, except when nonrated men are not available.

(b) Marines shall not be detailed to perform the duties of master-at-arms yeoman, or hospital corpsman, except in case of emergency, which shall be determined by the commanding officer. When necessary to make such assignment, it shall continue only until a suitable person can be selected for the required duty.

(c) Enlisted naval personnel may be assigned to duty in a service capacity in officers' messes and public quarters only when such assignment is authorized by the Secretary of the Navy. This shall not be construed to prevent the voluntary employment, in any such capacity, of a retired enlisted person or a transferred member of the Fleet Reserve or Fleet Marine Corps Reserve without additional expense to the Government.

§ 700.848. Rank and grade of an officer who succeeds to command.

An officer who succeeds to command acquires no increase of rank nor change in grade by virtue of such succession alone.

§ 700.849. Succession of a deputy or vice commander.

Except as otherwise provided for specific cases, a deputy or vice commander shall succeed to command or control, as appropriate, in the case of the incapacity or death of the officer whose deputy or vice commander he is, and, unless the latter directs otherwise, at other times during the absence of such officer.

§ 700.850. Succession to command of a bureau.

(a) When there is a vacancy in the office of the chief of a bureau, or during the disability of the chief of a bureau, or during his absence and unless he directs otherwise, the deputy chief of the bureau shall command the bureau until a successor takes office or the disability or the absence ceases.

(b) When the foregoing pargraph cannot be complied with because of the disability or absence of the deputy chief of the bureau, the heads of the major divisions of the bureau, in the order recommended by the Chief of Naval Operations and directed by the Secretary of the Navy, shall command the bureau until a successor takes office or the disability or the absence of the chief or deputy ceases.

§ 700.851. Succession to command of the Naval Material Command.

(a) When there is a vacancy in the office of the Chief of Naval Material or during the disability of the Chief of Naval Material, or during his absence and unless he directs otherwise, the Vice Chief of Naval Material shall command the Naval Material Command until a successor takes office, or the disability or the absence ceases.

(b) When the foregoing paragrph cannot be complied with because of disability or absence of the Vice Chief of Naval Material, the officer next senior in rank on the staff of the Chief of Naval Material shall succeed to command of the Naval Material Command, unless otherwise directed by the Chief of Naval Operations or the Secretary of the Navy, until a successor takes office or the disability or the absence of the Chief or the Vice Chief ceases.

§ 700.852. Succession to command of a naval systems command.

(a) When there is a vacancy in the office of a commander of a naval systems command or during the disability of a commander of a naval systems command, or during the absence of a commander of a naval systems command and unless he directs otherwise, the vice commander shall succeed to the command of the naval systems command until a successor takes office, or the disability or the absence ceases.

(b) When the foregoing paragraph cannot be complied with because of the absence or disability of the vice commander, the officer on the staff of the commander next senior in rank of the line or same staff corps as the commander, as appropriate, shall succeed to command of the naval systems command, unless otherwise directed by the Chief of Naval Material or the Chief of Naval Operations, until a successor takes office or the absence or disability of commander or vice commander ceases.

§ 700.853. Succession of a chief of staff and other staff officers.

In the absence or incapacity of the officer on whose staff he is serving, a chief of staff, chief staff officer, or other officer on a staff may succeed to command if next in rank within the command and otherwise eligible as provided in these regulations.

§ 700.854. Succession prescribed by a commander in chief.

A commander in chief and, when empowered by the Chief of Naval Operations, any other naval commander may prescribe the order of succession to command, including his own, among the various officers whom he has detailed to command task forces or other task commands. All orders issued under the authority of this article shall continue in effect after the incapacity or death of the officer issuing them until revoked by his successor in command or by higher authority. The powers delegated to a naval commander by this article are not conferred on any other officer by virtue of the fact that he is the senior officer present.

§ 700.855. Succession to command of a fleet, subdivision of a fleet, fleet marine force, or subdivision of a fleet marine force.

(a) In the event of the incapacity, death, departure on leave, or detachment without relief of a commander in chief of a fleet, a commander of a subdivision of a fleet, a commanding general of a fleet marine force, or a commanding general of a subdivision of a fleet marine force, or when such officer is absent from his command due to orders from competent authority and so directs, the following applies with regard to succession to command, unless competent authority prescribes that a deputy or other officer shall succeed to command. With respect to:

(1) A fleet, the senior line officer of the Navy, eligible for command at sea, in the fleet or subdivision of a fleet shall succeed to command.

(2) A fleet marine force, the senior officer of the Marine Corps, eligible for command, in the fleet marine force or subdivision of a Fleet Marine force shall succeed to command.

(b) During the absence from his command or headquarters of any of the commanders referred to in paragraph 1 of this article, and when such officer has not directed that he be succeeded in command as provided in the preceding paragraph, succession to command shall be as follows:

(1) The chief of staff or chief staff officer within a fleet.

(2) The deputy or assistant commander within a fleet marine force, or the chief of staff if a deputy or assistant commander is not assigned.

(c) An officer succeeding to command shall have authority to issue orders required to carry on the established routine and to perform the administrative functions of the command. He shall be the officer commanding for the time being for the administration and for the exercise of general court martial jurisdiction within the command. This shall not be construed to limit the authority and responsibility of the senior officer present in emergency or other foreseen situations which demand his action.

§ 700.856. Succession in battle.

When a flag officer or other commander of ships is incapacitated in battle the officer next in rank in the flagship and eligible to succeed him shall succeed provisionally until the officer who would succeed as provided in the preceding article announces that he has taken command. It is the duty of the

officer who succeeds provisionally to report, as soon as practicable, the incapacity of the flag officer to the officer who will succeed him and to the immediate superior of the flag officer.

§ 700.857. Succession to command of a ship.

In the event of the incapacity, death, relief from duty, or absence of the officer detailed to command a ship, he shall be succeeded by the line officer in the Navy, eligible for command at sea, next in rank and regularly attached to and on board the ship, until relieved by competent authority or until the regular commanding officer returns.

§ 700.858. Succession to command of aircraft units and submarines.

(a) In the event of the incapacity, death, relief from duty, or absence of the officer detailed to command an aircraft squadron, group, or wing, the line officer regularly attached to and on board the aircraft unit who is next in rank and qualified as a naval aviator or naval flight officer shall succeed him, until relieved by competent authority or until the regular commanding officer returns.

(b) In the event of the incapacity, death, relief from duty, or absence of the officer detailed to command a submarine, the line officer regularly attached to and on board the submarine who is next in rank and qualified for command in submarines shall succeed him, until relieved by competent authority or until the regular commanding officer returns.

§ 700.859. Succession to command of a sea frontier or of a naval district.

(a) In the event of the incapacity or death of a commander of a sea frontier or of a commandant of a naval district, or when he is absent from the limits of his command and so directs, he shall be succeeded by the officer eligible for command at sea, designated by the commander or by the commandant with the knowledge of the Chief of Naval Operations.

(b) During the absence of a commander of a sea frontier or of a commandant of a naval district and when he has not directed that he be succeeded in command as provided in the preceding paragraph, the deputy or the chief of staff or chief staff officer shall have authority to issue the orders required to carry on the established routine and to perform the administrative functions of the command. This shall not be construed to limit the authority or responsibility of the senior officer present in emergencies or other unforeseen situations which demand his action.

§ 700.860. Succession to command of a naval base.

(a) In the event of the incapacity or death of the commander of a naval base, or when he is absent and provided he so directs, he shall be succeeded by the officer, eligible for command at sea, designated by the commander of the naval base, with the approval of the immediate superior.

(b) During the absence of a commander of a naval base, and when he has not directed that he be succeeded in command as provided in the preceding paragraph, the chief of staff or chief staff officer shall have authority to issue the orders required to carry on the established routine and perform the administrative functions of the naval base. This shall not be construed to limit the authority or responsibility of the senior officer present in emergencies or other unforeseen situations which demand his action.

§ 700.861. Succession to command of a naval shore activity.

(a) In the event of incapacity, death or absence of the commanding officer or officer in charge of a naval shore activity not otherwise provided for in these regulations, the line officer next in rank shall succeed him, except:

(1) The commanding officer of a naval hospital shall be succeeded by the executive officer who, if so detailed by the Chief of Naval Personnel, need not be next in rank.

(2) An officer in the staff corps may succeed to command only at such activities as appropriate to his corps.

(3) When appropriate, the Chief of Naval Operations may specify that the commanding officer shall be succeeded by an officer eligible for command at sea who need not be next in rank.

§ 700.862. Succession to command by officers designated for engineering duty or special duty.

Officers designated for engineering duty, aeronautical engineering duty, or special duty who are otherwise eligible as provided in these regulations, may succeed to command only on shore.

§ 700.863. Succession to command by officers of the Marine Corps.

An officer of the Marine Corps shall not succeed to command of any ship or naval shipyard, or of a naval station, except when the officer detailed to command the station is an officer of the Marine Corps.

§ 700.864. Succession to command on detachment of an officer in command without relief.

Should an officer in command be detached without relief, he shall be succeeded in command by that officer who, in accordance with these regulations, would succeed to command in case of the incapacity, death, or absence of the officer in command.

§ 700.865. Succession to command by line officers designated for limited duty.

Officers of the line designated for limited duty may succeed to command of an activity in conformity with the following:

(a) In ships, officers of the line of the Navy designated for limited duty, who are authorized to perform all deck duties afloat, may succeed to command.

(b) Within other commands of the naval service, any limited duty officer with a designator appropriate to the function of the activity may succeed to command.

§ 700.866. Succession to command by chief warrant officers and warrant officers.

Chief warrant officers and warrant officers may succeed to command of an activity in conformity with the following:

(a) In ships, chief warrant and warrant officers who are authorized to perform all deck duties afloat may succeed to command.

(b) Within other commands of the naval service, any chief warrant or warrant officer, with a designator appropriate to the function of the activity may succeed to command.

§ 700.867. Relief of a commanding officer by a subordinate.

(a) It is conceivable that most unusual and extraordinary circumstances may arise in which the relief from duty of a commanding officer by a subordinate becomes necessary, either by placing him under arrest or on the sick list; but such action shall never be taken without the approval of the Commandant of the Marine Corps or the Chief of Naval Personnel, as appropriate, or the senior officer present, except when reference to such higher authority is undoubtedly impracticable because of the delay involved or for other clearly obvious reasons. In any event, a complete report of the matter shall be made to the Commandant of the Marine Corps or the Chief of Naval Personnel as appropriate, and the senior officer present, setting forth all facts in the case and the reasons for the action or recommendation, with particular regard to the degree of urgency involved.

(b) In order that a subordinate officer, acting upon his own initiative, may be vindicated for relieving a commanding officer from duty, the situation must be obvious and clear, and must admit of the single conclusion that the retention of command by such commanding officer will seriously and irretrievably prejudice the public interests. The subordinate officer so acting must be next in succession to command; must be unable to refer the matter to a common senior for one of the reasons set forth in the preceding paragraph; must be certain that the prejudicial actions of his commanding officer are not caused by instructions unknown to the subordinate officer; must have given the matter such careful consideration, and must have made such exhaustive investigation of all the circumstances as may be practicable; and finally, must be thoroughly convinced that the conclusion to relieve his commanding officer is one which a reasonable, prudent, and experienced officer would regard as a necessary consequence from the facts thus determined to exist.

(c) Intelligent, fearless initiative is an important trait of military character; and it is not the purpose of these regulations to discourage its employment in cases of this nature. However, as the action of relieving a senior from command involves most serious possibilities, a de-

cision to do so, or to so recommend should be based upon facts established by substantial evidence, and upon the official views of others in a position to form valid opinions, particularly of a technical character. An officer relieving his commanding officer or recommending such action, together with all others who so counsel, must bear the legitimate responsibility for, and must be prepared to justify, such action.

NOTE: For Subpart I of this Part, see page 7220.

Subpart J—Rights and Responsibilities of Persons in the Department of the Navy

§ 700.1101. Officer's duties relative to laws, orders and regulations.

Every officer in the naval service shall acquaint himself with, obey, and, so far as his authority extends, enforce the laws, regulations and orders relating to the Department of the Navy. He will faithfully and truthfully discharge the duties of his office to the best of his ability in conformance with existing orders and regulations and his solemn profession of the oath of office. In the absence of instructions he shall act in conformity with the policies and customs of the service to protect the public interest.

§ 700.1102. Requirement of exemplary conduct.

All commanding officers and others in authority in the naval service are required to show in themselves a good example of virtue, honor, patriotism, and subordination; to be vigilant in inspecting the conduct of all persons who are placed under their command; to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Navy, all persons who are guilty of them; and to take all necessary and proper measures, under the laws, regulations, and customs of the naval service, to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge. (10 USC 5947).

§ 700.1103. Conduct of persons in the naval service.

All persons in the naval service shall show in themselves a good example of subordination, courage, zeal, sobriety, neatness and attention to duty. They shall aid, to the utmost of their ability and to the extent of their authority, in maintaining good order and discipline as well as in other matters concerned with the efficiency of the command.

§ 700.1104. Compliance with lawful orders.

All persons in the naval service are required to obey readily and strictly, and to execute promptly, the lawful orders of their superiors.

§ 700.1105. Appeal from decision of a superior.

An official appeal by a person in the Department of the Navy from an order or decision of an immediate superior shall be addressed to the next higher common superior having power to act in the matter and shall be forwarded through such immediate superior, except in the case of the latter's refusal or failure to forward it, when it may be forwarded direct with an explanation of such course. If the officer whose order or decision is appealed from is the commanding officer of the person appealing and if such commanding officer refuses or fails to forward the appeal, the person appealing may appeal to any officer superior to such commanding officer; the latter officer shall forward the appeal directly to the officer exercising general court-martial jurisdiction over the commanding officer. The officer exercising general court-martial jurisdiction shall examine into said appeal and take proper measure; and he shall, as soon as possible, transmit to the Secretary of the Navy a true statement of such appeal, with the proceedings had thereon.

§ 700.1106. Oppression or other misconduct by a superior.

(a) If any person in the naval service considers himself oppressed by his superior, or observes in him any misconduct, he shall not fail in his respectful bearing towards such superior, but shall report such oppression or misconduct to the proper authority. Such person will be held accountable if his report is found to be vexatious, frivolous, or false.

(b) A report of oppression by, or misconduct of, a superior shall be made to the immediate commanding officer of the person making the report unless the commanding officer is himself the subject of the report, or is the subordinate of the officer who is the subject of the report.

(c) If the immediate commanding officer is the subject of the report, the report shall be in writing and shall be forwarded to the superior who exercises general court-martial jurisdiction over the commanding officer reported on, through the immediate commanding officer and any other officers who may be in the chain of command. If the immediate commanding officer reported on or if any superior in the chain of command not having general court-martial jurisdiction shall refuse or fail within a reasonable time to forward the report received to his immediate superior having such jurisdiction, the person making the report may complain to any officer superior to himself and such officer shall forward the complaint directly to the immediate superior exercising general court-martial jurisdiction over the immediate commanding officer.

(d) If a superior of the immediate commanding officer is the subject of the report, the report shall be in writing and shall be forwarded through the immediate commanding officer and the officer who is the subject of the report, and any other officers who may be in the chain of command, to the immediate superior exercising general court-martial jurisdiction over the officer reported on. If any officer through whom the report is forwarded refuses or fails to forward the report within a reasonable time, the person making the report may complain to any officer superior to himself, and such officer shall forward the complaint directly to the immediate superior exercising general court-martial jurisdiction over the officer reported on.

(e) Any officer exercising general court-martial jurisdiction over a person reported on shall, upon receiving a report of oppression or misconduct, examine into the matter, and take such action in conformity with the Uniform Code of Military Justice and these regulations as may be proper to redress wrong, if any, complained of; and he shall, as soon as may be practicable, transmit to the Secretary of the Navy a true statement of the report and any proceedings had in connection therewith.

§ 700.1107. Direct communication with the commanding officer.

(a) The right of any person in the naval service to communicate with the commanding officer at a proper time and place is not to be denied or restricted.

(b) Officers who are senior to the executive officer have the right to communicate directly with the commanding officer, but they shall keep the executive officer informed on matters related to the functioning of the command.

(c) A head of department, or of any other major subdivision of an activity, has the right to communicate directly with the commanding officer concerning any matter relating to his department or subdivision, but shall keep the executive officer informed.

§ 700.1108. Forwarding individual requests.

Requests from persons in the naval service shall be acted upon promptly. When addressed to higher authority, requests shall be forwarded without delay. The reason should be stated when a request is not approved or recommended.

§ 700.1109. Accusations, replies, and counter charges.

(a) Whenever an accusation is made against a person in the naval service, either by report or by endorsement upon a communication, a copy of such report or endorsement shall be furnished him at the time.

(b) Reports or complaints, and statements submitted in reply to written accusation or in explanation thereof, shall be couched in temperate language and shall be confined to pertinent facts. Opinions shall not be expressed nor the motives of others impugned.

(c) Persons in the naval service to whom reports or complaints are submitted for statement shall not reply by making counter charges.

§ 700.1110. Adverse matter in the record of a person in the naval service.

Adverse matter shall not be placed in the record of a person in the naval service without his knowledge. Except for the medical and dental entries referred to in the following article, such matters shall be first referred to the person reported upon for such statement as he may

choose to make. If the person reported upon does not desire to make a statement, he shall so state in writing.

§ 700.1111. Adverse entries in medical and dental records.

(a) The medical officer or dental officer shall inform the person concerned whenever an entry is made in such person's medical record or dental record of a serious illness, operation, injury, or physical defect which may adversely affect, in other than a temporary degree, his efficiency in the performance of duty.

(b) The medical officer or dental officer shall inform, in writing, the commanding officer and the person concerned whenever an entry is made in the latter's medical record which indicates that a disease or injury may be attributable to misconduct, or indicating the use by such person of intoxicants, marijuana, narcotic substances or other controlled substances as defined in these regulations to a degree presumed to disqualify him physically, mentally, or morally for performance of duty.

(c) The medical officer or dental officer normally shall permit access to the record by the person concerned when adverse entries are made. Should the medical officer or dental officer deem the condition of the person concerned to be such as to make it inadvisable or impractical to inform him of the entry or to permit him access to the record, he shall so advise the commanding officer, and shall make a notation of this action and opinion in the record. As soon as circumstances permit the person concerned shall be notified of the adverse entry and this fact shall be noted in the record. The person concerned shall have the right to make and have entered in the record such statement in rebuttal as he may desire. If the person concerned does not desire to make a statement, he shall so state in writing.

§ 700.1112. Misconduct and line of duty findings.

Except for the medical and dental entries referred to in the preceding article, no adverse entry concerning misconduct and line of duty shall be made in any person's official record except in accordance with the provisions of the Manual of the Judge Advocate General.

§ 700.1113. Inspection of the record of a person in the naval service.

The record of a person of the naval service maintained by the Chief of Naval Personnel or the Commandant of the Marine Corps shall be available for inspection by him or his duly authorized agent, designated as such by him in writing.

§ 700.1114. Correction of naval records.

(a) Any military record in the Department of the Navy may be corrected by the Secretary of the Navy, acting through the Board for Correction of Naval Records, when he considers that such action should be taken in order to correct an error or to remove an injustice.

(b) Applications for corrections under this article may be made only after exhaustion of all other administrative remedies afforded by law or regulation.

(c) Applications for such corrections should be submitted to the Secretary of the Navy (Board for Correction of Naval Records) in accordance with procedural regulations established by the Secretary of the Navy and approved by the Secretary of Defense.

§ 700.1115. Control of Official Records.

No person, without proper authority, shall withdraw official records or correspondence from the files, or destroy them, or withhold them from those persons authorized to have access to them.

§ 700.1116. Disclosure and Publication of Information.

(a) No person in the Department of the Navy shall convey or disclose by oral or written communication, publication, graphic (including photographic) or other means, any classified information except as provided in the Department of the Navy Security Manual for Classified Information. Additionally, no person in the Department of the Navy shall communicate or otherwise deal with foreign entities, even on an unclassified basis, when such would commit the Department of the Navy to disclose classified military information, except as may be required in his official duties and only after coordination with an approval by the release authority stipulated in the Department of the Navy Security Manual for Classified Information.

(b) No person in the Department of the Navy shall convey or disclose by oral or written communication, publication, or other means, except as may be required by his official duties, any information concerning the Department of Defense or forces, or any person, thing, plan or measure pertaining thereto, where such information might be of possible assistance to a foreign power; nor shall any person in the Department of the Navy make any public speech or permit publication of any article written by or for him which is prejudicial to the interests of the United States. The regulations concerned with the release of information to the public through any media will be as prescribed by the Secretary of the Navy.

(c) No person in the Department of the Navy shall, other than in the discharge of his official duties, disclose any information whatever, whether classified or unclassified, or whether obtained from official records or within the knowledge of the relator, which might aid or be of assistance in the prosecution or support of any claim against the United States.

(d) Any person in the Department of the Navy receiving a request from the public for Department of the Navy records shall be governed by security classification markings, distribution statements on technical documents, and the term "For Official Use Only" which may be used to identify material or records not to be released to the general public. The general regulations concerned with the availability to the public of the Department of the Navy records shall be as prescribed by the Secretary of the Navy.

(e) Persons in the Department of the Navy desiring to submit manuscripts to commercial publishers, on professional, political or international subjects shall comply with regulations promulgated by the Secretary of the Navy.

(f) No person in the naval service on active duty or civilian employee of the Department of the Navy shall act as correspondent of a news service or periodical, or as a television or radio news commentator or analyst, unless assigned to such duty in connection with the public affairs activities of the Department of the Navy, or authorized by the Secretary of the Navy. Except as authorized by the Secretary of the Navy, no person assigned to duty in connection with public affairs activities of the Department of the Navy shall receive any compensation for acting as such correspondent, commentator, or analyst.

§700.1117. Official records in civil courts.

No person in the Department of the Navy shall produce or release any official record in response to a subpoena duces tecum, motion for discovery, interrogatory or otherwise in a civil suit, or in connection with preliminary investigations by attorneys or others except in accordance with the provisions of the Manual of the Judge Advocate General.

§ 700.1118. Leave and liberty.

It is the policy of the Department of the Navy that leave and liberty will be granted to the maximum extent practicable.

§ 700.1119. Quality and quantity of rations.

(a) Meals served in the general mess shall be sampled, regularly, by an officer detailed by the commanding officer for that purpose. Should this officer find the quality or quantity of the food unsatisfactory, or should any member of the mess object to the quality or quantity of the food, the commanding officer shall be notified and he shall take appropriate action.

(b) No person employed in the service of the general mess shall receive any subscription from persons entitled to subsist in the mess.

§ 700.1120. Rules for preventing collisions, afloat and in the air.

(a) All persons in the naval service responsible for the operation of naval ships, craft and aircraft shall diligently observe the International Rules for Preventing Collisions at Sea, (commonly called International Rules of the Road) Inland Rules of the Road, domestic and international air traffic regulations, and such other rules and regulations as may be established by the Secretary of Transportation or other competent authority for regulating traffic and preventing collisions on the high seas, in inland waters, or in the air, where such laws, rules and

regulations are applicable to naval ships and aircraft. In those situations where such law, rule or regulation is not applicable to naval ships, craft or aircraft they shall be operated with due regard for safety of others.

(b) Any significant infraction of the laws, rules and regulations governing traffic or designed to prevent collisions on the high seas, in inland waters, or in the air, which may be observed by persons in the naval service shall be promptly reported to their superiors, including the Chief of Naval Operations or Commandant of the Marine Corps when appropriate.

(c) Reports need not be made under this article if the facts are otherwise reported in accordance with other directives, including duly authorized safety programs.

§ 700.1121. Discharge of oil, trash, and garbage.

(a) Except as authorized by law or regulation, no oil, oily waste, or trash shall be discharged into United States or foreign internal waters or prohibited areas. The United States prohibited area is designated as waters within 50 miles of the United States coastline. The Chief of Naval Operations shall provide descriptions of prohibited areas for other nations. Trash discharged at sea should have, or be packaged for, negative buoyancy.

(b) Garbage shall not be thrown overboard within a contiguous zone, which is 12 miles from any coastline.

(c) Any oil slick within 50 miles of the coastline of the United States shall be reported as soon as possible to nearest Coast Guard District Headquarters.

§ 700.1122. Code of Conduct for Members of the Armed Forces of the United States.

(a) The code of Conduct for Members of the Armed Forces of the United States shall be carefully explained to each enlisted person:

(1) Within six days of his initial enlistment.

(2) After completion of six month's active service, and

(3) Upon the occasion of each reenlistment.

(b) Instruction in the Code of Conduct for Members of the Armed Forces of the United States shall be included in the general military training program of the command.

(c) A text of the Code of Conduct for Members of the Armed Forces of the United States shall be posted in one or more conspicuous places, readily accessible to personnel of the command.

§ 700.1123. Capture by an enemy.

(a) A person in the naval service who is captured by the enemy is bound to give only his name, grade or rate, file or serial number and date of birth. In order to communicate with his family, as guaranteed in the Geneva Convention Relative to the Treatment of Prisoners of War, he may give the names and addresses of his parents, guardian, or next of kin.

(b) Except as provided in the foregoing any person in the naval service captured by the enemy shall evade further questions and shall make no oral or written statement disloyal to, critical of, or harmful to, the United States or its allies.

§ 700.1124. Relations with foreign nations.

(a) Persons in the Department of the Navy, in their relations with foreign nations, and with the governments or agents thereof, shall conform to international law and to the precedents established by the United States in such relations.

(b) The religious institutions and customs of foreign countries visited by persons in the Department of the Navy shall be respected.

§ 700.1125. Language reflecting upon a superior.

No person in the naval service shall use language which may tend to diminish the confidence in or respect due to his superior officer.

§ 700.1126. Suggestions for improvement.

Any person in the Department of the Navy may address to the Secretary of the Navy via chain of command, suggestions or constructive criticism pertaining to improvements in efficiency or more economical methods of administration or management in the Department of the Navy.

§ 700.1127. Exchange of duty.

No person in the naval service shall exchange an assigned duty with another without permission from his commanding officer or appropriate superior.

§ 700.1128. Unavoidable separation from a command.

Any person in the naval service who is separated from his ship, station, or unit due to shipwreck, disaster, or other unavoidable circumstances, shall proceed as soon as possible to the nearest United States military activity and report to the commanding officer thereof.

§ 700.1129. Combinations for certain purposes prohibited.

Combinations of persons in the naval service for the purpose of remonstrating against orders or details to duty, complaining of particulars of duty or procuring preferences are forbidden.

§ 700.1130. Making of gifts or presents.

(a) No person in the Department of Navy shall at any time solicit contributions from other persons in the naval service or from other officers, clerks, or employees in the Government service for a gift or present to persons in superior official positions; nor shall any persons in such superior official positions receive any gift or present offered or presented them as a contribution from persons in Government employ (including persons in the naval service) receiving a less rate of pay than themselves, nor shall any of said persons make any donation as a gift or present to any such official superiors. However, this paragraph does not prohibit a voluntary gift of nominal value or donation in nominal amount made on a special occasion such as marriage, illness or retirement.

(b) No person in the Department of the Navy shall solicit subscriptions for the purpose of making a gift to a member of the immediate family of a person in a superior official position.

§ 700.1131. Pecuniary dealings with enlisted persons.

(a) No officer shall borrow money or accept deposits from, or have any pecuniary dealings with an enlisted person except as may be required in the performance of his duty, and except for the sale of an item of personal property which is for sale to other persons under the same conditions of guarantee and for same consideration, and never having been the property of a government.

(b) Superiors, of flag or general grade, may authorize, as a duty, an officer or officers to accept deposits from an enlisted person for the sole purpose of temporarily safeguarding his personal funds under emergency or operational situations.

§ 700.1132. Lending money and engaging in a trade or business.

(a) No person in the naval service, on active service, shall, for profit or benefit of any kind, lend money to another person in the armed services, except by permission of his commanding officer; nor, having made a loan to another person in the armed services, shall he take or receive, in payment therefor, then or later, directly or indirectly, without the approval of the commanding officer, a sum of money, or any other thing or service, of a greater amount or value than the sum of money loaned.

(b) Unless authorized by his commanding officer or higher authority, no person in the naval service on active service, either for himself or as an agent for another, shall engage in trade or business on board any ship of the Navy or within any naval activity or introduce any article for purposes of trade on board any ship of the Navy or within any naval activity.

§ 700.1133. Use of title for commercial enterprises.

No person in the naval service shall, while on extended naval service, use his grade or rating in connection with a commercial enterprise. "Extended naval service," for the purposes of this article, is defined as active duty, other than active duty for training, under a call or order that does not specify a period of thirty days or less. This article shall not apply to a person who is not on active service, nor shall it apply to authorship of any material for publication, by persons on either active or inactive service, provided that such material is published in accordance with existing regulations.

§ 700.1134. Report of a communicable disease.

All persons in the naval service shall report promptly to a medical representative, or where no medical officer is read-

ily available, to his higher authority the existence or suspicion of communicable disease in persons with whom they are living or otherwise come in contact.

§ 700.1135. Immunization.

Persons in the naval service shall permit such action to be taken to immunize them against disease as is prescribed by competent authority.

§ 700.1136. Possession of weapons.

Except as may be necessary to the proper performance of his duty or as may be authorized by proper authority, no person in the naval service shall:

(a) Have concealed about his person any dangerous weapon, instrument or device; or any highly explosive article or compound.

(b) Have in his possession any dangerous weapon, instrument, or device or any highly explosive article or compound on board any ship, craft, aircraft, or in any vehicle of the naval service or within any base, or other place under naval jurisdiction.

§ 700.1137. Report of deficit or excess of public money or property.

Any person in the Department of the Navy who has knowledge of a deficit or excess of public money or public property shall take prompt and appropriate action to bring the matter to the attention of his commanding officer or appropriate superior.

§ 700.1138. Use and expenditures of equipage and supplies.

All persons in the Department of the Navy shall ensure that equipage and supplies in their charge are properly cared for, preserved, and economically used. They shall avoid any unnecessary expenditure of public money. To the extent of their authority they shall prevent infractions of this regulation by others.

§ 700.1139. Obligation to report offenses.

Persons in the Department of the Navy shall report to proper authority offenses committed by persons in the Department of the Navy which come under their observation.

§ 700.1140. Report of fraud.

If any person in the Department of the Navy has knowledge of any fraud, collusion, or improper conduct on the part of any purchasing or other agent or contractor, or on the part of any person employed in superintending repairs, receiving or receipting for supplies, or has knowledge of any fraud, collusion, or improper conduct in such matters connected with the Department of the Navy, he shall report the same immediately in writing to the proper authority, specifying the particular act, or acts of misconduct, fraud, neglect, or collusion and describing any evidence which may assist in proving same.

§ 700.1141. Possession of government property.

No person in the Department of the Navy shall have in his possession any property of the United States, except as may be necessary to the proper performance of duty or as may be authorized by proper authority.

§ 700.1142. Uniforms, arms, and outfits.

(a) The clothing, arms, and accouterments which are sold or issued by the United States to any person in the naval service shall not be sold, bartered, exchanged, pledged, loaned or given away, except as may be authorized by proper authority.

(b) No person in the naval service shall have in his possession, without permission from proper authority, any article of wearing apparel or bedding belonging to any other person in the naval service.

§ 700.1143. Return of government property on release from active service.

When a person is released from active service, he shall return all Government property in his possession to his commanding officer or other competent authority.

§ 700.1144. Issue or loan of public property.

(a) Except as prescribed in this article, public property including supplies, shall not be issued, on loan or otherwise, to any state, organization, or private individual except by special authority of Congress.

(b) When so authorized by the senior officer present, a commanding officer may issue such supplies as can be spared to those in distress in the event of a public exigency or calamity, or to vessels in distress, and, when so authorized, he may issue rations and necessities to destitute seamen and airmen of the United States who are received on board. The supply officer making such an issue shall do so only pursuant to an order in writing, shall procure receipts when practicable for the supplies issued, and shall render accounts for such supplies in accordance with the instructions contained in the Naval Supply System Command Manual or the Marine Corps Supply Manual, as appropriate.

(c) Public property, except aircraft, may be loaned by the commandant of a naval district to a state located within the district and maintaining naval militia organizations, for use by a naval militia organization in that state, provided that 95 percent of the personnel of the last-mentioned organization are attached to or associated with a unit of the naval reserve, and provided that the naval militia organization conforms to the standards prescribed by the Secretary of the Navy for similar organizations of the Naval Reserve. A report of such loans shall be made by the commandant to the interested bureaus, offices or commands of the Navy Department.

§ 700.1145. Administrative control of funds.

No person in the Department of the Navy shall make or authorize an expenditure from or create or authorize an obligation under any appropriation or fund in excess of the amount available therein; nor shall any such person involve the Government in any contract or other obligation for the payment of money for any purpose in advance of appropriations made for such purpose, unless such contract or obligation is authorized by law. No person in the Department of the Navy shall accept voluntary service for the United States or employ personal service in excess of that authorized by law, except in cases of emergency involving the safety of human life or the protection of property.

§ 700.1146. Adoption or use of proprietary articles, inventions or copyrighted material.

(a) Except as prescribed in this article, no person in the Department of the Navy shall adopt or use or shall authorize the adoption or use for or on behalf of the Government of:

(1) Any article when it is known to be proprietary.

(2) Any invention when it is known, or there is reason to believe, that the invention is or will be patented.

(3) Any matter in which it is known, or there is reason to believe, a copyright exists.

(b) Adoption or use of any of the above mentioned classes shall not be made unless consent of the owner has been obtained or, lacking consent of the owner, such use or adoption has been authorized by the Secretary of the Navy; provided, however, that when the exigencies of the naval service necessitate, adoption or use of any of the classes above mentioned may be made without waiting to obtain prior consent or authorization of either the owner or the Secretary of of the Navy. In any case where such adoption or use is made without obtaining prior consent or authorization, a full and complete report of all facts and circumstances relevant thereto shall be made promptly to the Secretary of the Navy.

§ 700.1147. Service examinations.

(a) No person in the Department of the Navy, without proper authority, shall:

(1) Have in his possession, obtain, sell, publish, give, purchase, receive, or reproduce; or

(2) Attempt or offer to have in his possession, obtain, sell, publish, give, purchase, receive, or reproduce; any examination paper, or any part or copy thereof, or answer sheet thereto, for any examination whatsoever which has been, is, or is to be, administered within the Department of the Navy.

(b) Prior to, during, or after any examination which is to be, is being, or has been administered within the Department of the Navy, no person in the Department of the Navy shall, without proper authority, disclose, or solicit the disclosure of, any information regarding questions or answers to questions on such examination.

(c) No person in the Department of the Navy shall engage in any unauthorized form of giving or accepting assistance or of self-help during the administration of any examination within the Department of the Navy.

§ 700.1148. Dealings with members of Congress.

No person may restrict any member of an armed force in communicating with a member of Congress, unless the communication is unlawful or violates a regulation necessary to the security of the United States. (10 USC 1034).

§ 700.1149. Communications to the Congress.

No person in the naval service shall, in his official capacity, apply to the Congress or to either house thereof, or to any committee thereof, for legislation or for appropriations or for Congressional action of any kind except with the consent and knowledge of the Secretary of the Navy. Nor shall any such person, in his official capacity, respond to any request for information from Congress, or from either house thereof, or from any committee of Congress, except through, or as authorized by, the Secretary of the Navy, or as provided by law.

§ 700.1150. Alcoholic liquors.

(a) Except as may be authorized by the Secretary of the Navy, the introduction, possession or use of alcoholic liquors for beverage purposes on board any ship, craft, aircraft, or in any vehicle of the Department of the Navy is prohibited. The transportation of alcoholic liquors for personal use ashore is authorized, subject to the discretion of the officer in command or officer in charge, or higher authority, when the liquors are delivered to the custody of the officer in command or officer in charge of the ship, craft, or aircraft in sealed packages, securely packed, properly marked and in compliance with customs laws and regulations, and stored in securely locked compartments, and the transportation can be performed without undue interference with the work or duties of the ship, craft, or aircraft. Whenever alcoholic liquor is brought on board any ship, craft, or aircraft for transportation for personal use ashore, the person who brings it on board shall at that time file with the officer in command or officer in charge of the ship, craft, or aircraft, a statement of the quantity and kind of alcoholic liquor brought on board by him, together with his certification that its importation will be in compliance with customs and internal revenue laws and regulations and applicable State or local laws at the place of debarkation.

(b) The introduction, possession, and use of alcoholic liquors for beverage purposes or for sale is authorized within naval activities and other places ashore under naval jurisdiction, to the extent and in such manner as the Secretary of the Navy may prescribe.

§ 700.1151. Responsibilities concerning marijuana, narcotics, and other controlled substances.

(a) All personnel shall endeavor to prevent and eliminate the unauthorized use of marijuana, narcotics, and other controlled substances within the naval service.

(b) Except for authorized medicinal purposes, the introduction, possession, use, sale, or other transfer of marijuana, narcotic substances or other controlled substances on board any ship, craft, or aircraft of the Department of the Navy or within any naval station or other place under the jurisdiction of the Department of the Navy, or the possession, use, sale, or other transfer of marijuana, narcotic substances or other controlled substances by persons in the naval service, is prohibited.

(c) The term "controlled substance" means: a drug or other substance included in Schedule I, II, III, IV, or V established by section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236), as updated and republished under the provisions of that Act.

§ 700.1152. Records of fitness.

(a) Records will be maintained on officers and enlisted persons of the Navy and Marine Corps which reflect their fitness for the service and performance of duties. Promotion and assignment to duty is determined by an individual's record of which the record fitness and performance is an essential part.

(b) The fitness and performance report is decisive in the service career of the individual officer and enlisted person and has an important influence on the efficiency of the entire Department of the Navy. The preparation of these reports shall be regarded by superior and commanding officers as one of their most important and responsible duties.

(c) The Chief of Naval Operations and the Commandant of the Marine Corps shall be responsible for the maintenance and administration of the records and reports in their respective services.

§ 700.1153. Demand for court-martial.

Except as otherwise provided in the Uniform Code of Military Justice, no person in the naval service may demand a court-martial either on himself or on any other person in the naval service.

§ 700.1154. Suspension or arrest of an officer.

(a) An officer placed under arrest or restriction (with or without suspension from duty) on board ship shall not be confined to his room or restrained from the proper use of any part of the ship to which, before his suspension, arrest, or confinement, he had a right, except the quarter-deck and bridges, unless such arrest or restriction shall be necessary for the safety of the ship or of the officer, or for the preservation of good order and discipline. Similarly, at a naval station or other place on shore, the arrest or restriction imposed shall not be unduly rigorous.

(b) An officer when placed under arrest shall not visit his commanding officer or other superior officer unless sent for or to obtain medical treatment or in case of emergency, but in case of business requiring attention, he shall make it known in writing.

§ 700.1155. Temporary restoration to duty.

A commanding officer or other competent authority may temporarily release and restore to duty an officer in custody or under restriction, arrest, or confinement, should an emergency of the service or other sufficient cause make such measure necessary. The order for temporary release shall be in writing and shall assign the reasons. Should the officer be under charges, they need not be withdrawn, and such temporary release and restoration to duty shall not be a bar to any subsequent investigation or trial of the case that the convening authority may think proper to order, nor to the investigation of any complaint the accused may make in regard to the custody, restriction, arrest or confinement.

§ 700.1156. Refusal to return to duty.

No person in the naval service shall persist in considering himself in custody or under restriction, arrest, or confinement, after he has been released by proper authority, nor shall he refuse to return to duty.

§ 700.1157. Reprimand or admonition.

Any letter of censure to a subordinate from any officer in command is a nonjudicial punishment within the purview of Article 15, Uniform Code of Military Justice, except when issued pursuant to the sentence of a court-martial, if a copy thereof is forwarded to the Headquarters, United States Marine Corps or Bureau of Naval Personnel. Any other criticism, reproof, or instructions, written or oral, shall not in itself constitute a punishment in that sense.

§ 700.1158. Limitations on certain punishments.

(a) Instruments of restraint, such as handcuffs, chains, irons, and straitjackets, shall not be applied as punishment. Furthermore, chains shall not be applied as restraints. Other instruments of restraint may not be used except for safe custody and no longer than is strictly necessary under the following circumstances:

(1) As a precaution against escape during the transfer of a person in custody or confinement;

(2) On medical grounds by direction of the medical officer;

(3) By order of the commanding officer or officer in charge, if necessary to prevent a person from injuring himself or others or from damaging property, provided that other methods of control are considerd ineffectual. In such instances a medical examination shall be made at the earliest practicable time, preferably in advance of the restraint, to ensure that no medical contraindication exists. The commanding officer or officer in charge shall submit a letter report of the details to the next superior authority and, if no medical officer is available to conduct the examination, shall submit a message report in lieu thereof.

(b) The punishments of extra duties and hard labor without confinement shall not be performed on Sunday although Sunday counts in the computation of the period for which such punishments are imposed.

(c) Guard duty shall not be inflicted as punishment.

§ 700.1159. Treatment and release of prisoners.

(a) Persons in confinement shall be in the custody of a master-at-arms or other person designated by the commanding officer. They shall not be subjected to cruel or unusual treatment. They shall be visited as necessary, but at least once every 4 hours to ascertain their condition, and to care, as may be appropriate, for their needs.

(b) The commanding officer shall direct their release promptly upon the expiration of their confinement. In case of fire or other sudden danger which may imperil their lives, they shall, subject to such special orders as the commanding officer may have issued, be removed to a place of safety or, when appropriate, released within the limits of the command by the master-at-arms, or other custodian, and the commanding officer shall be promptly informed of the action taken.

(c) No greater force than that required to restrain or confine the offender shall be used in taking into custody a person intoxicated from indulgence in alcoholic liquors, or under the influence of marijuana, narcotic substances, or other controlled substances as defined in these regulations.

§ 700.1160. Places of confinement.

(a) Prisoners shall be confined only in brigs or other facilities designated as naval places of confinement by the Secretary of the Navy. However, in cases of necessity, the senior officer present may authorize temporary confinement in spaces which provide sufficient security features, safety for both the prisoner and guard personnel, and adequate living conditions.

(b) Intoxicated persons or persons under the influence of marihuana, narcotic substances, or controlled substances as defined in these regulations shall not be confined in any place or manner that may be dangerous to them in their condition.

§ 700.1161. Endorsement of commercial product or process.

Except as necessary during contract administration to determine specification or other compliance, no person in the Department of the Navy, in his official capacity, shall endorse or express an opinion of approval or disapproval of any commercial product or process.

§ 700.1162. Action upon receipt of orders.

(a) An order from competent authority to an officer requiring such officer to report for duty at a place, or to proceed to any point and report for duty, but fixing no date and not expressing haste, shall be obeyed by reporting within four days, exclusive of travel time, after its receipt for execution. If the order read "without delay," the officer shall report within forty-eight hours, exclusive of travel time, after its receipt for execution; and if "immediately," within twelve hours, exclusive of travel time, after its receipt for execution. Officers receiving "proceed without delay" and "proceed immediately" orders shall endorse on their orders the date and hour of their receipt for execution. Any delay in carrying out orders granted by competent authority is in addition to the time allowed by this article.

(b) The time allowed by this article may be taken any time between the time of detachment from the officer's original station and the time of reporting at the new permanent duty station. It may, however, be taken only once regardless of whether the officer avails himself at that time of all or part of the proceed time.

(c) An application for the revocation or modification of orders will not justify any delay in their execution, if the officer ordered is able to travel.

(d) Proceed time for enlisted personnel will be as prescribed by the Chief of Naval Operations or the Commandant of the Marine Corps.

§ 700.1163. Equal opportunity and treatment.

Equal opportunity and treatment shall be accorded all persons in the Department of the Navy irrespective of their race, color, religion, sex, or national origin consistent with requirements for physical capabilities.

Subpart K—Purpose and Force of Regulations Within the Department of the Navy

§ 700.1201. Purpose and force of United States Navy Regulations.

United States Navy Regulations is the principal regulatory document of the Department of the Navy, endowed with the sanction of law, as to duty, responsibility, authority, distinctions, and relationships of various commands, officials, and individuals. Other regulations, instructions, orders, manuals, or similar publications, shall not be issued within the Department of the Navy which conflict with, alter or amend any provision of Navy Regulations.

§ 700.1202. Issuances concerning matters over which control is exercised.

Responsible officers and officials of the Department of the Navy may issue, or cause to be issued, orders, instructions, directives, manuals or similar publications concerning matters over which they exercise command, control, or supervision.

§ 700.1203. Imposition of workload.

Orders, instructions or directives will be issued with due regard for the imposition of workload resulting therefrom and benefits or advantages to be gained, particularly, when the imposition of requirements is outside of command lines of authority.

§ 700.1204. Navy Regulations changes.

(a) The Chief of Naval Operations is responsible for ensuring that Navy Regulations conform to the current needs of the Department of the Navy. When any person in the Department of the Navy deems it advisable that a correction, change or addition should be made to Navy Regulations, he shall forward a draft of the proposed correction, change or addition, with a statement of the reasons therefor to the Chief of Naval Operations via the chain of command. The Chief of Naval Operations shall endeavor to obtain the concurrence of the Commandant of the Marine Corps, the Judge Advocate General, and other appropriate offices and bureaus. Unresolved disputes concerning such corrections, changes or additions shall be forwarded to the Secretary of the Navy for appropriate action.

(b) Changes to Navy Regulations will be numbered consecutively and contained in page changes. Advance changes may be used when required. Advance changes will be numbered consecutively and incorporated in page changes at frequent intervals.

Dated: February 15, 1974.

MERLIN H. STARING,
Rear Admiral, JAGC, U.S. Navy,
Judge Advocate General of the Navy.

[FR Doc.74-4193 Filed 2-22-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74-CE-3-AD, Amdt. 39-1791]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 19, 23 and 24 Airplanes

There is a possibility that the fuel vent lines may be obstructed in certain serial numbers of Beech Models 19, 23 and 24 airplanes. Specifically, these vent lines may be kinked, bent or twisted. This condition, if not corrected, may prevent proper functioning of the fuel tank vent system and could result in engine power loss. Since the condition described herein may exist in other airplanes of the same type design, an Airworthiness Directive (AD) is being issued applicable to these airplanes which will require inspection to detect possible restriction of the fuel vent lines and correction of any unsatisfactory conditions noted.

Since a situation exists which requires expeditious adoption of the amendment, notice and public procedure hereon are impracticable and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to Models B19 (Serial Numbers MB-606 thru MB-628); C23 (Serial Numbers M-1477 thru M-1496 and M-1501); and B24R (Serial Numbers MC-159 thru MC-192, MC-195, MC-197 and MC-198) airplanes.

Compliance: Required within 25 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent engine power loss due to restricted fuel tank vent lines, accomplish the following:

(A) 1. Remove the inspection plates from both lower wings outboard of the fuel tanks.

2. With the aid of a flashlight and mirror, visually inspect the fuel vent lines in both wings outboard of the fuel tanks for kinks, bends or twists.

3. Remove any kink, bend or twist observed in the fuel vent lines. If an existing fuel vent line cannot be straightened, cut the obstructed area from the fuel vent line and splice in a replacement with a P/N 262P ¼ union. (Available from Imperial Eastman, 6300 West Howard Street, Chicago, Illinois 60648, or Beech Aircraft Company.)

4. Remove the fuel filler cap, cover the small hole in the side of the vent outlet, and blow air orally into the vent outlets to verify that the vent lines are open.

5. Check the routing of the vent lines for excessive tubing adjacent to the tank ribs at the outboard end of the tanks. Remove any excess tubing and splice the line with a P/N 262P ¼ union.

6. Replace the fuel caps and inspection plates.

(B) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

Beechcraft Service Instruction No. 0628-281 or later FAA-approved revisions cover the subject matter of this AD.

This amendment becomes effective February 27, 1974.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on February 13, 1974.

A. L. COULTER,
Director, Central Region.

[FR Doc.74-4279 Filed 2-22-74;8:45 am]

[Docket No. 73-SO-82; Amdt. 39-1792]

PART 39—AIRWORTHINESS DIRECTIVES

Piper PA-25 Series Airplanes

Amendment 39-1755 (38 FR 34460), AD 73-26-2, requires inspection of the forward wing spar lower cap for cracks and replacement, if necessary, on Piper PA-25 series airplanes. After issuing Amendment 39-1755, the Agency determined that a modification is available to eliminate the need for repetitive inspections on those airplanes modified by STC SA501SW. Therefore, the AD is being amended to provide for modification of the forward spar and elimination of repetitive inspection requirements.

Since this amendment provides an alternate means of compliance and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and this amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1755 is amended as follows:

(1) By amending applicability to read as follows:

Applies to all Piper PA-25 (150 hp) and PA-25-235 airplanes certificated in all categories which have incorporated STC SA501SW.

(2) By adding the following new paragraph at the end thereof:

(f) When STC SA501SW is modified in accordance with Drawing SPD20025 by Luther W. Moore dated January 2, 1974, the repetitive inspections at 100 hour intervals after the first inspection are no longer required.

This amendment becomes effective February 28, 1974.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423e); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c))

Issued in East Point, Ga., on February 14, 1974.

P. M. SWATEK,
Director, Southern Region.

[FR Doc.74-4280 Filed 2-22-74;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 8885]

PART 13—PROHIBITED TRADE PRACTICES

Gimbel Brothers, Inc.

Subpart—Combining or conspiring: § 13.395 *To control marketing practices and conditions;* § 13.405 *To discriminate unfairly or restrictively in general;* § 13.430 *To enhance, maintain or unify prices;* § 13.450 *To limit distribution or dealing to regular, established or acceptable channels or classes;* § 13.470 *To restrain or monopolize trade.* Subpart—Cutting off access to customers or market: § 13.560 *Interfering with distributive outsets.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Gimbel Brothers, Inc., New York, N.Y., Docket 8885, Jan. 30, 1974]

In the Matter of Gimbel Brothers, Inc., a Corporation

Consent order requiring a leading department store headquartered in New York City, among other things to cease entering into or enforcing agreements, including lease agreements, enabling it to control the identity, size or location of other retailers in shopping centers.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. For purposes of this order, the following definitions shall apply:

A. The term "respondent" refers to Gimbel Brothers, Inc., its operating divisions, its subsidiaries, and their respective officers, agents, representatives, employees, successors or assignees.

B. The term "shopping center" refers to a planned development of retail outlets which has a total floor area designed for retail occupancy of at least 200,000 sq. ft. excluding, however, such a development consisting of one major tenant and less than 50,000 sq. ft. designed for retail occupancy by tenants other than the major tenant.

C. The term "tenant" refers to any occupant or potential occupant of retail space in a shopping center, whether as lessee or owner of such space, but not as a developer of a shopping center.

D. The term "retailer" refers to a tenant which sells merchandise or services to the public.

E. The term "major tenant" refers to a tenant providing primary drawing power in a shopping center.

F. The term "respondent's pro rata share of lineal feet" refers to the number of lineal feet in a shopping center determined by dividing 50 percent of the total lineal feet of nonmajor tenant mall store frontage by the number of major tenants in the shopping center.

II. A. *It is ordered,* That respondent, in its capacity as a tenant in a shopping center, cease and desist from making, carrying out, or enforcing, directly or indirectly, an agreement or provision of any agreement which:

1. Grants respondent the right to approve or disapprove the entry into a shopping center of any other retailer;

2. Grants respondent the right to approve or disapprove the amount of floor space that any other retailer may lease or purchase in a shopping center;

3. Prohibits the admission into a shopping center of any particular retailer or class of retailers, including, for purposes of illustration:

(a) Other department stores,
(b) Junior department stores,
(c) Discount stores, or
(d) Catalogue stores;

4. Limits the types of merchandise or brands of merchandise or service which any other retailer in a shopping center may offer for sale;

5. Specifies that any other retailer in a shopping center shall or shall not sell its merchandise or services at any particular price or within any range of prices;

6. Grants respondent the right to approve or disapprove the location in a shopping center of any other retailer;

7. Specifies or prohibits any type of advertising by other retailers, other than advertising within a shopping center;

8. Prohibits price advertising within a shopping center by retailers or controls advertising within a center by retailers in such a way as to make it difficult for customers to discern advertised prices from the common area of such shopping center; or

9. Prevents expansion of a shopping center.

B. *It is further ordered,* That respondent, in its capacity as a tenant in a shopping center, shall not enter into or carry out any conspiracy, combination or arrangement with any other tenant to exclude any tenants from a shopping cen-

ter or to grant respondent or another tenant any control over the admission of other tenants to the shopping center,

III. A. *It is further ordered,* That when respondent is the first major tenant to agree with a developer or landlord of a shopping center to become a tenant in such center, this order shall not prohibit respondent from terminating its agreement to become a tenant in such center if such developer or landlord does not obtain the agreement of one major tenant acceptable to respondent to operate a store in the center.

B. *It is further ordered,* That this order shall not prohibit respondent from negotiating to include, including, carrying out, or enforcing provisions in any agreement (a) with a developer or a landlord of a shopping center, or (b) if respondent shall be the owner of the building in which its store is located within a shopping center or land in a shopping center on which it intends to erect such a building, then with the owners of other buildings and land in such shopping center, which:

1. Permit respondent to establish reasonable categories of retailers from which the developer or the landlord may select tenants to be located in the area immediately proximate to respondent's store; *Provided,* That such categories shall not include specification of (a) price ranges, (b) price lines, (c) trade names, (d) store names, (e) trademarks, brands or lines of merchandise of retailers, or (f) identity of particular retailers, including the listing of particular retailers as examples of a category: *And further, provided,* That such area shall not exceed 150 lineal feet of mall store frontage with respect to respondent's department stores and 200 lineal feet of mall store frontage with respect to respondent's Saks Fifth Avenue stores, immediately proximate to the mall frontage of respondent's store, on each level: *Provided,* That such area does not exceed respondent's pro rata share of lineal feet;

2. Require the developer or the landlord to maintain reasonable standards of appearance, signs, maintenance and housekeeping of and in the shopping center;

3. Prohibit occupancy of space in the shopping center by clearly objectionable types of tenants, including, for purposes of illustration, shops selling pornographic materials;

4. Approve or grant to respondent the right to approve an initial layout of the shopping center, which layout may (a) designate respondent's store, (b) set forth the location, size and height of all buildings, (c) locate parking areas, roadways, utilities, entrances, exits, walkways, malls, landscaped areas and other common areas, and (d) establish a proposed layout for future expansion of the shopping center; and

5. Require that any expansion of the shopping center not provided for in the initial layout:

(a) Shall not interfere with efficient automobile and pedestrian traffic flow into and out of the shopping center and between respondent's store and perimeter and access roads, parking areas, malls and other common areas of the shopping center;

(b) Shall not interfere with the efficient operation of respondent's store, including its utilities or its visibility from within the shopping center or from public highways adjacent thereto;

(c) Shall not result in a change of (i) the shopping center's parking ratio; (ii) the location of a number of parking spaces reasonably accessible to respondent's store determined by the application of such parking ratio to the number of square feet of floor area of respondent's store; (iii) the entrances and exits to and from respondent's store and any malls; and (iv) those parking area mall entrances and exits which substantially serve respondent's store;

(d) Shall be accomplished only after any and all covenants, obligations and standards (for example, construction, architecture, operation, maintenance, repair, alteration, restoration, parking ratio, and easements) of the shopping center, exclusive of the expansion area (i) shall be made applicable to the expansion area and (ii) shall be made prior in right to any and all mortgages, deeds of trust, liens, encumbrances, and restrictions applicable to the expansion area, and (iii) shall be made prior in right to any and all other covenants, obligations and standards applicable to the expansion area.

IV. *It is further ordered,* That respondent shall forthwith distribute a copy of this Order to each of its operating divisions.

It is further ordered, That respondent shall:

(1) Within thirty (30) days after service of this order upon respondent, notify each developer of shopping centers in which respondent occupies floor space, of this order by providing each such developer with a copy thereof by registered certified mail, and

(2) Within sixty (60) days after the date of issuance of this order, file with the Commission a report showing the manner and form in which it has compiled and is complying with each and every specific provision of this order.

V. *It is further ordered,* That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

Issued: January 30, 1974.

By the Commission.

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

[FR Doc.74-4329 Filed 2-22-74;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart H—Delegations of Authority

REVISION OF DELEGATIONS OF AUTHORITY REGARDING IMPORTS

The Commissioner of Food and Drugs is amending Part 2—Administrative Functions, Practices, and Procedures (21 CFR Part 2) to provide an additional delegation of authority to Bureau of Radiological Health Officials regarding imported electronic products.

Further redelegation of this authority is not authorized. Authority redelegated hereby to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him as "acting" or unless not legally permissible.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 2 is amended by revising § 2.121(c) to read as follows:

§ 2.121 Redelegations of authority from the Commissioner to other officers of the Administration.

* * * * *

(c) *Delegations regarding imports.* (1) The Regional Food and Drug Directors and Deputy Regional Food and Drug Directors are authorized to designate officials who may request, under section 801(a) of the Federal Food, Drug, and Cosmetic Act, from the Secretary of the Treasury samples of foods, drugs, devices, or cosmetics imported, or offered for import, in order to determine whether such articles are in compliance with the act.

(2) The Director and Deputy Director of the Bureau of Radiological Health, and the Director of the Division of Compliance of that Bureau are authorized to request, under section 360(a) of the Public Health Service Act, from the Secretary of the Treasury samples of electronic products imported or offered for import in order to determine whether such articles are in compliance with that act.

(3) The Director and Deputy Director of the Bureau of Radiological Health, and the Director of the Division of Compliance of that Bureau may, under section 360B(b) of the Public Health Service Act, exempt persons from issuing a certification as required by section 358 (h) of the act, for electronic products imported into the United States for testing, evaluation, demonstration, or training, which will not be introduced into commerce and upon completion of their

function, will be destroyed or exported in accord with Bureau of Customs regulations.

* * * * *

Effective date. This order shall be effective on February 25, 1974.

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

Dated: February 15, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-4299 Filed 2-22-74;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Boiler Water Additives

The Commissioner of Food and Drugs, having evaluated data in a petition (FAP 1A2657) filed by Union Carbide Corp., Post Office Box 65, Tarrytown, NY 10591, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use of monobutyl ethers of polyethylene-polypropylene glycol as a boiler water additive in the preparation of steam that will contact food.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.1088(c) is amended by alphabetically inserting in the list of substances a new item as follows:

§ 121.1088 Boiler water additives.

* * * * *

(c) List of substances:

	Limitations
* * *	* * *
Monobutyl ethers of polyethylene-polypropylene glycol produced by random condensation of a 1:1 mixture by weight of ethylene oxide and propylene oxide with butanol.	Minimum mol. wt. 1,500.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before March 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. This order shall become effective on February 25, 1974.

(Sec. 409(c)(1), 72 Stat. 1786; (21 U.S.C. 348(c)(1)))

Dated: February 15, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-4304 Filed 2-22-74;8:45 am]

SUBCHAPTER C—DRUGS

PART 135—NEW ANIMAL DRUGS

Subpart B—Statements of Policy and Interpretation Regarding Animal Drugs and Medicated Feeds

ANTHELMINTIC DRUGS FOR USE IN ANIMALS

In the FEDERAL REGISTER of August 11, 1972 (37 FR 16200), the Commissioner of Food and Drugs proposed new § 135.111 *Anthelmintic drugs for veterinary use.* This proposed regulation would require that anthelmintic drugs which do not carry the prescription statement be labeled to include the statement "For a satisfactory diagnosis, a microscopic fecal examination should be performed by a veterinarian or diagnostic laboratory prior to worming." The proposed label statement was based upon the fact that parasites inhabiting the host digestive tract produce ova and larvae primarily of microscopic size that leave the body of the host by way of the feces. The parasitic forms seen in the feces have a characteristic morphology which is diagnostic for a particular species or group of closely related parasites. The various intestinal parasites differ substantially in sensitivity to different anthelmintic drugs. The lay person generally has neither the equipment nor the experience necessary to isolate and differentiate these parasites which may be present in animals.

Twenty-four responses were received to the proposed regulation; two favored the proposal, fourteen opposed it, and eight offered alternative label statements or requested exemption. The following is a summary and evaluation of the submitted comments:

1. A number of comments took issue with the statement that a satisfactory diagnosis should be based upon a microscopic fecal examination. The comments stated that, although fecal examination is a valuable diagnostic tool, it is subject to variable factors such as some parasite ova are difficult or impossible to identify because they rapidly embryonate; samples submitted for examination often arrive at the laboratory in poor condition; explicit information regarding the clinical history of the animal is necessary; the type of examination required; the origin of a specimen is often lacking; a differential diagnosis requires experienced examiners; some procedures are complex, requiring larval cultures resulting in considerable time in diagnosis thus making treatment more difficult; on occasion several methods of fecal egg count must be employed; and many internal parasites cannot be diagnosed by fecal examination. The comments stated that it is not always necessary nor desirable to obtain diagnosis by fecal examination prior to worming. Sampling programs on a herd or flock basis would be extremely difficult to undertake. Also, mixed infections are usually present to some extent. Poultry, especially broilers, are often raised on built-up litter and are frequently routinely wormed several times during their growing cycle as part of a preventive program. One state university school of agriculture stated that they recommended a continuous farrowing program in swine in which an anthelmintic is given to pigs 5 to 6 weeks of age and treatment is repeated 30 days later. Under this program, diagnosis by routine fecal examination is not appropriate.

The Commissioner concludes that microscopic fecal examination is subject to a number of variables and may not always be appropriate. The required label statement as adopted below has been revised to delete specific reference to diagnostic procedure and to give more emphasis to obtaining professional assistance in the diagnosis, treatment, and control of parasitism.

2. Several comments assumed that the order would result in a mandatory diagnosis for parasitism before these drugs could be used. It was stated that adequate diagnostic faciilties are not available in sufficient numbers to accommodate all users of anthelmintic drugs. It was also pointed out that a mandatory diagnosis would increase the cost of production and the cost of edible products. Such mandatory requirement would cause these over-the-counter products to be subject to use on advise or recommendation of a veterinarian or diagnostician which would in effect place these products in prescription status. One comment suggested that the requirement appeared to be a step toward making all such drugs subject to prescription dispensing. Another comment stated that if the diagnosis became mandatory it would result in reduced performance of livestock and poultry since preventive programs could not be used, resulting in an increase in the rate of condemnations at slaughter. One practitioner stated that the requirement of a fecal examination may discourage pet owners from routinely worming their animals prior to whelping. He stated that routine worming is desirable since all animals will carry some degree of infection whether or not shown by fecal examination.

The proposed label statement was not intended to place a mandatory requirement for diagnosis for parasitism, including fecal examination, prior to the use of over-the-counter anthelmintics in the treatment of livestock, poultry, or pets. It

brings to the attention of users of such drugs that prediagnosis in the treatment of parasitism is a good management practice and that it is well to be aware of the type of helminths inhabiting the intestinal tract prior to treatment.

3. Another comment expressed the view that the amount of information now carried in the labeling is unlikely to be read in its entirety and that the additional statement would also be disregarded in many instances.

The Commissioner finds that the labels and labeling of all over-the-counter animal drugs, including anthelmintic drugs, should bear adequate directions for their safe and effective use. It is encumbent upon the user to familiarize himself with all such information made available to him regarding the use of such drugs.

4. One comment requested that the required labeling not apply to medicated feeds. It was pointed out that most anthelmintics administered in feed are for prevention and control purposes. They are administered by livestock and poultry producers familiar with the problems encountered in the control of such conditions and therefore, these products should not be subject to labeling which would require prediagnosis.

The Commissioner does not agree that livestock and poultry producers will necessarily be familiar with all the problems encountered in the prevention and control of parasites in herd management programs and concludes that livestock and poultry producers may need assistance. The statement as modified will be required on the labels of medicated feeds as well as all other over-the-counter anthelmintic drugs, and the regulation has been revised to make this clear.

5. One comment requested that the proposal be modified with respect to the term "labeling," suggesting that the statement need appear only on the label and not in all labeling except insofar as such labeling contains complete directions for use.

The proposed regulation has been revised to require that the statement appear on the label and any labeling furnishing or purporting to furnish directions for use.

6. A manufacturer of piperazine stated that this anthelmintic has been in use for over 20 years, and livestock growers are familiar with its capabilities and therefore do not require professional advice. The spectrum treated by piperazine is such that a diagnosis is usually unnecessary, and the drug is relatively safe. Therefore, this drug should be exempt from the proposed statement.

The Commissioner finds that the statement as modified should apply to piperazine products as well as all other over-the-counter anthelmintic drugs. Many livestock growers may be familiar with the capabilities of piperazine; however, this will not always be the case. The spectrum of organisms which are susceptible to treatment with piperazine do not include all organisms encountered in livestock management.

7. One comment on behalf of the principal United States manufacturers of animal health and nutrition products, set forth various objections to the diagnostic provisions of the proposed statement. However, the comment went on to state that it is appropriate to advise the layman how to obtain diagnostic assistance if desired, and recommended alternative wording.

The Commissioner concurs in part with this recommendation and after consideration of this and all other comments has adopted an alternate statement. The statement as proposed has been revised to read, "Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism."

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502(b), 512, 701(a), 52 Stat. 1051, 1055, 82 Stat. 343–351; 21 U.S.C. 352(b), 360b, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135 is amended by adding the following new section:

§ 135.111 Anthelmintic drugs for use in animals.

(a) The Commissioner of Food and Drugs has determined that, in order to assure that anthelmintic drugs, including animal feeds bearing or containing such drugs, which do not carry the prescription statement are labeled to provide adequate directions for their effective use, labeling of these anthelmintic drugs shall bear, in addition to other required information, a statement that a veterinarian should be consulted for assistance in the diagnosis, treatment, and control of parasitism.

(b) The label and any labeling furnishing or purporting to furnish directions for use, shall bear conspicuously the following statement: "Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism."

(c) For drugs covered by approved new animal drug applications, the labeling revisions required for compliance with this section may be placed into effect without prior approval as provided for in § 135.13a (d) and (e). For animal feeds bearing or containing anthelmintic drugs covered by approved applications, the labeling revisions required for compliance with this section may be placed into effect without the submission of supplemental applications as provided for in § 135.13b.

(d) Labeling revisions required for compliance with this section shall be placed into effect by February 25, 1975, following which, any such drugs that are introduced into interstate commerce and not in compliance with this section will be subject to regulatory proceedings.

Effective date. This order shall be effective on February 25, 1974.

(Secs. 502(b), 512, 701(a), 52 Stat. 1051, 1055, 82 Stat. 343–351; (21 U.S.C. 352(b), 360b, 371(a)))

Dated: February 15, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–4300 Filed 2–22–74;8:45 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Dexamethasone Powder, Veterinary

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (30–434V) filed by Schering Corp., 86 Orange St., Bloomfield, NJ 07003, proposing revised labeling for the safe and effective use of dexamethasone powder, veterinary for treating cattle and horses. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135c is amended by adding a new section thereto as follows:

§ 135c.79 Dexamethasone powder, veterinary.

(a) *Specifications.* Dexamethasone powder, veterinary is packaged in packets containing 10 milligrams of dexamethasone.

(b) *Sponsor.* See code No. 032 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) Dexamethasone powder, veterinary is indicated in cases where cattle and horses require additional steroid therapy following its parenteral administration. The drug is used as supportive therapy for management or inflammatory conditions such as acute arthritic lameness, and for various stress conditions where corticosteroids are required while the animal is being treated for a specific condition.

(2) The drug is administered at a dosage level of 5 to 10 milligrams per animal the first day then 5 milligrams per day as required by drench or by sprinkling on a small amount of feed.

(3) Clinical and experimental data have demonstrated that corticosteroids administered orally or parenterally to animals may induce the first stage of parturition when administered during the last trimester of pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis.

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

Effective date. This order shall be effective on February 25, 1974.

(Sec. 512(i), 82 Stat. 347; (21 U.S.C. 360b(i)))

Dated: February 15, 1974.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.74–4301 Filed 2–22–74;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-203]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

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

§ 1914.4 Status of participating communities.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
*	*	*	*	*	*	*
Arkansas	Phillips	Helena, city of				Feb. 15, 1974, Emergency.
Do.	Pulaski	Sherwood, city of				Do.
California	San Luis Obispo	Morro Bay, city of				Do.
Illinois	St. Clair	East Carondelet, village of.				Do.
Minnesota	Washington	Newport, village of.				Do.
Mississippi	Winston	Louisville, city of				Feb. 11, 1974, Emergency.
Do.	Bolivar	Merigold, town of				Do.
Missouri	Phelps	Rolla, city of				Feb. 15, 1974, Emergency.
New York	Niagara	Wilson, village of				Do.
North Carolina	Edgecombe	Tarboro, town of				Do.
Pennsylvania	Lebanon	Palmyra, borough of.				Do.
Do.	do	South Londonderry, township of.				Do.
Do.	Mercer	Wheatland, borough of.				Do.
Washington	Pierce	Unincorporated areas.				Do.
Do.	Garfield	Pomeroy, city of				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: February 12, 1974.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.74-4238 Filed 2-22-74;8:45 am]

[Docket No. FI-205]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

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

§ 1914.4 Status of participating communities.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
*	*	*	*	*	*	*
California	San Diego	Coronado, city of				Feb. 22, 1974. Emergency.
Louisiana	St. John the Baptist Parish.	Unincorporated areas.				Feb. 11, 1974. Emergency.
Minnesota	Dodge	Unincorporated areas.				Feb. 22, 1974. Emergency.
New Jersey	Mercer	Hopewell, borough of.				Do.
Oregon	Coos	Coos Bay, city of				Do.
Pennsylvania	Jefferson	Reynoldsville, borough of.				Do.
Virginia	Appomattox	Appomattox, town of.				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: February 15, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74-4240 Filed 2-22-74;8:45 am]

[Docket No. FI-206]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

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

§ 1914.4 Status of participating communities.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
*	*	*	*	*	*	*
New Jersey	Burlington	Pemberton, township of.				Feb. 22, 1974. Emergency.
Louisiana	St. James	Lutcher, town of				Feb. 14, 1974. Emergency.
Pennsylvania	Perry	Bloomfield, borough of.				Feb. 22, 1974. Emergency.
Texas	Harris	Deer Park, city of				Do.
Virginia	Alleghany	Unincorporated areas.				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: February 14, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74-4241 Filed 2-22-74;8:45 am]

[Docket No. FI-207]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

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

§ 1914.4 Status of participating communities.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
*	*	*	*	*	*	*
Alabama	Cullman	Cullman, city of				Feb. 19, 1974, Emergency.
Massachusetts	Bristol	Berkley, town of				Do.
Minnesota	Cottonwood	Windom, city of				Do.
Do.	Dodge	Hayfield, city of				Do.
Do.	Sherburne	Elk River, city of				Do.
Mississippi	Claiborne	Unincorporated areas.				Feb. 14, 1974, Emergency.
Missouri	St. Louis	Olivette, city of				Feb. 19, 1974, Emergency.
Pennsylvania	Bradford	Sayre, borough of				Do.
Do.	Columbia	Benton, township of.				Do.
Do.	Montgomery	North Wales, borough of.				Do.
Texas	....do	Woodbranch, village of.				Do.
Do.	Tarrant	Forest Hill, city of.				Do.
Virginia	Campbell	Altavista, town of				Do.
Do.	Rockingham	Bridgewater, town of.				Do.
Do.	Montgomery	Unincorporated areas.				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: February 13, 1974.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.74-4242 Filed 2-22-74;8:45 am]

[Docket No. FI-204]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

The Federal Insurance Administrator finds that comment and public procedure and the use of delayed effective dates in identifying the areas of communities which have special flood or mudslide hazards, in accordance with 24 CFR Part 1915, would be contrary to the public interest. The purpose of such identifications is to guide new development away from areas threatened by flooding. Since this publication is merely for the purpose of informing the public of the location of areas of special flood hazard and has no binding effect on the sale of flood insurance or the commencement of construction, notice and public procedure are impracticable, unnecessary, and contrary to the public interest. Inasmuch as this publication is not a substantive rule, the identification of special hazard areas shall be effective on the date shown. Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
California	Alameda	Newark, city of	H 06 001 2370 01 through H 06 001 2370 03	Department of Water Resources, P.O. Box 388, Sacramento, Calif. 95802. California Insurance Department, 107 South Broadway, Los Angeles, Calif. 90012.	Mayor, 37101 Newark Blvd., Newark, Calif. 94560.	Feb. 22, 1974.
Do	San Diego	Del Mar, city of	H 06 073 1004 01 through H 06 073 1004 04	do	Mayor, City Hall, 201 15th and Del Mar Ave., Del Mar, Calif. 92014.	Do.
Do	San Joaquin	Stockton, city of	H 06 077 3770 01 through H 06 077 3770 20	do	City Hall, 425 North Eldorado St., Stockton, Calif. 95202.	Do.
Do	San Mateo	Dale City, city of	H 06 081 0970 01 through H 06 081 0970 04	do	Mayor, City Hall, Sullivan and 90th Sts., Caly City, Calif. 94015.	Do.
Do	Siskiyoo	Etna, city of	H 06 093 1210 01	do	Mayor, City Hall, Etna, Calif. 96027	Do.
Do	Sonoma	Cloverdale, city of.	H 06 097 0730 01 through H 06 097 0730 02	do	Mayor, City Hall, 124 North Cloverdale Blvd., Cloverdale, Calif. 95425.	Do.
Do	do	Sonoma, city of	H 06 097 3660 01	do	Mayor, City Hall, No. 1, The Plaza, Sonoma, Calif. 95476.	Do.
Do	Tulare	Farmersville, city of.	H 06 107 1254 01	do	Mayor, City Hall, 147 East Front St., Farmsville, Calif. 93223.	Do.
Colorado	Adams	Brighton, city of	H 08 001 0230 01 through H 08 001 0230 04	Colorado Water Conservation Board, Room 102, 1845 Sherman St., Denver, Colo. 80203. Colorado Division of Insurance, 106 State Office Bldg., Denver, Colo. 80203.	City Manager, City Hall, Brighton, Colo. 80601.	Do.
Florida	Brevard	Satellite Beach, city of.	H 12 009 2785 01 through H 12 009 2785 02	Department of Community Affairs, 2571 Executive Center Circle East, Howard Bldg., Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, the Capitol, Tallahassee, Fla. 32304.	City Hall, city of Satellite Beach, 510 Cinnamon Dr., Satellite Beach, Fla. 32937.	Do.
Do	Broward	Sunrise Golf Village, city of.	H 12 011 2918 01 through H 12 011 2918 04	do	Mayor, City Hall, 77 Sunset Strip, Fort Lauderdale, Fla. 33313.	Do.
Do	do	North Lauderdale, city of.	H 12 011 2214 01 through H 12 011 2214 02	do	Mayor, City Hall, North Lauderdale, Fla. 33314.	Do.
Illinois	Cook	Northbrook, village of.	H 17 031 6280 01 through H 17 031 6280 04	Governor's Task Force on Flood Control, Natural Resources Service Center, Thornhill Bldg., P.O. Box 475, Lisle, Ill. 60532. Illinois Insurance Department, 509 State Office Bldg., Indianapolis, Ind. 46204.	Village Hall, 1225 Cedar Lane, Northbrook, Ill. 60062.	Do.
Do	Bureau	Spring Valley, city of.	H 17 011 8230 01 through H 17 011 8230 03	do	Mayor, City Hall, Spring Valley, Ill. 61362.	Do.
Do	Cook	Park Ridge, city of.	H 17 031 6740 01 through H 17 031 6740 03	do	Mayor, 505 Park Pl., Park Ridge, Ill. 60068.	Do.
Do	Effingham	Teutopolis, village of.	H 17 049 8530 01	do	Mayor, City Hall, Teutopolis, Ill. 62467.	Do.
Do	Ford	Piper, village of	H 17 053 6970 01	do	Mayor, village of Piper City, Piper City, Ill. 60959.	Do.
Do	Gallatin	Ridgway, village of.	H 17 059 7310 01	do	President, village of Ridgway, Municipal Bldg., Ridgway, Ill. 62979.	Do.
Do	Green	Greenfield, city of	H 17 061 3600 01	do	Mayor, City Hall, Greenfield, Ill. 62044.	Do.
Do	Iroquois	Cissna Park, village of.	H 17 075 1760 01	do	Mayor, City Hall, Cissna Park, Ill. 60924.	Do.
Do	Jasper	Wheeler, village of	H 17 079 9294 01	do	Village president, Wheeler, Ill. 62479	Do.
Do	Knox	Galesburg, city of	H 17 095 3260 01 through H 17 095 3260 07	do	Mayor, City Hall, Galesburg, Ill. 61401.	Do.
Do	Livington	Cullom, village of.	H 17 105 2120 01	do	Mayor, Village Hall, Cullom, Ill. 60929	Do.

State	County	Location	Map No	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
*	*	*	*	*	*	*
Do	Pope	Hamletsburg, village of.	H 17 151 3685 01	do	Mayor, City Hall, Hamletsburg, Ill. 62944.	Do.
Do	Richland	Olney, city of	H 17 159 6520 01 through H 17 159 6520 02	do	City manager, City Hall, Olney, Ill. 62450.	Do.
Do	St. Clair	Fayetteville, village of.	H 17 163 3002 01	do	Zoning Director, Fayetteville Zoning Board, Route No. 2, Mascoutah, Ill. 62258.	Do.
Do	do	O'Fallon, city of	H 17 163 6460 01 through H 17 163 6460 03	do	Zoning Director, 200 North Lincoln, O'Fallon, Ill. 62269.	Do.
Do	Saline	Eldorado, city of	H 17 165 2680 01	do	Mayor, City Hall, Eldorado, Ill. 62930.	Do.
Do	Wayne	Fairfield, city of	H 17 191 2920 01 through H 17 191 2920 02	do	Mayor, City Hall, Fairfield, Ill. 62837	Do.
Iowa	Woodbury	Correctionville, town of.	H 19 193 1850 01	Iowa Natural Resources Council, James W. Grimes Bldg., Des Moines, Iowa 50319. Iowa Insurance Department, Lucas State Office Bldg., Des Moines, Iowa 50319.	Mayor, City Hall, Correctionville, Iowa 51016.	Do.
Kansas	Barton	Hoisington, city of.	H 20 009 2490 01	Division of Water Resources, State Board of Agriculture, Topeka, Kans. 66612. Kansas Insurance Department, 1st floor, Statehouse, Topeka, Kans. 66612.	Mayor, City Hall, Hoisington, Kans. 67544.	Do.
Do	Elk	Moline, city of	H 20 049 3730 01	do	Mayor, City Hall, Moline, Kans. 67353	Do.
Do	Jackson	Holton, city of	H 20 085 2520 01	do	Mayor, City Hall, Holton, Kans. 66436	Do.
Do	Rush	La Crosse, city of	H 20 165 2910 01	do	Mayor, City Office, La Crosse, Kans. 67548.	Do.
Kentucky	Bell	Pineville, city of	H 21 013 2650 01	Division of Water, Kentucky Department of Natural Resources, Capitol Plaza Office Tower, Frankfort, Ky. 40601. Kentucky Insurance Department, Old Capitol Annex, Frankfort, Ky. 40601.	Office of City Clerk, city of Pineville, Municipal Bldg., Pineville, Ky. 40977.	Do.
Do	Magoffin	Salyersville, town of.	H 21 153 2870 01	do	Mayor, City Hall, Salyersville, Ky. 41465.	Do.
Maine	Androscoggin	Poland, town of	H 23 001 6226 01 through H 23 001 6226 05	Maine Soil and Water Conservation Commission, State House, Augusta, Maine 04330. Maine Insurance Department, Capitol Shopping Center, Augusta, Maine 04330.	Chairman, selectmen, R.F.D. No. 4, town of Poland.	Do.
Do	Aroostook	Presque Isle, city of.	H 23 003 6450 01 through H 23 003 6450 04	do	Chairman, city council, City Office, Presque Isle, Maine 04769.	Do.
Do	Cumberland	South Portland, city of.	H 23 005 7600 01 through H 23 005 7600 05	do	Planning Board, city of South Portland, South Portland, Maine 04106.	Do.
Do	Kennebec	Gardiner, city of	H 23 011 3150 01 through H 23 011 3150 05	do	Mayor, City Bldg., Gardiner, Maine 04345.	Do.
Massachusetts	Worcester	Lancaster, town of.	H 25 027 0566 01 through H 25 027 0566 02	Division of Water Resources, Water Resources Commission, State Office Bldg., 100 Cambridge St., Boston, Mass. 02202. Massachusetts Division of Insurance, 100 Cabridge St., Boston, Mass. 02202.	Chairman, Board of Selectmen, Town Hall, town of Lancaster, Lancaster, Mass. 01523.	Do.
Do	do	Millbury, town of	H 25 027 0785 01 through H 25 027 0785 05	do	Municipal Office Bldg., Elm St., Millbury, Mass. 01527.	Do.
Michigan	Monroe	Dundee, township of.	H 26 115 1340 01 through H 26 115 1340 13	Water Resources Commission, Bureau of Water Management, Stevens T. Mason Bldg., Lansing, Mich. 48913. Michigan Insurance Bureau, 111 North Hosmer St., Lansing, Mich. 48913.	Ben Ball, 4130 Kimpton Rd., Dundee, Mich. 48131.	Do.
Do	Oakland	Beverly Hills, village of.	H 26 125 0472 01 through H 26 125 0472 02	do	Village Offices, 31000 Lahser Rd., Birmingham, Mich. 48010.	Do.
Do	Washtenaw	Manchester, village of.	H 26 161 2950 01	do	President, 421 Riverside Dr., Manchester, Mich. 48158.	Do.
Missouri	St. Louis	Olivette, city of	H 29 189 5910 01 through H 29 189 5910 06	Water Resources Board, P.O. Box 271, Jefferson City, Mo. 65101. Division of Insurance, P.O. Box 690, Jefferson City, Mo. 65101.	Mayor, City Hall, Olivette, Mo. 63132	Do.
New Hampshire.	Coos	Northumberland, town of.	H 33 007 0389 01 through H 33 007 0389 07	Office of State Planning, Division of Community Planning, State House Annex, Concord, N.H. 03301. New Hampshire Insurance Department, 78 North Main St., Concord, N.H. 03301.	Town manager, Town Office, town of Northumberland, Goveton, N.H. 03582.	Do.
Do	Hillsborough	Pelham, town of	H 33 011 0400 01 through H 33 011 0400 09	do	Selectmen, town of Pelham, Pelham, N.H. 03076.	Do.

State	County	Location	Map No	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
*	*	*	*	*	*	*
New Jersey	Bergen	Woodcliff Lake, borough of.	H 34 003 3730 01 through H 34 003 3730 06	Bureau of Water Control, Department of Environmental Protection, P.O. Box 1390, Trenton, N.J. 08625. New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625.	Mayor, 188 Pascack Rd., Woodcliff Lake, N.J. 07675.	Do.
Do	Camden	Oaklyn, borough of.	H 34 007 2340 01	do	Mayor, 500 White Horse Pike, Oaklyn, N.J. 08107.	Do.
Do	Mercer	Hamilton, township of.	H 34 021 1294 01 through H 34 021 1294 06	do	Mayor, township of Hamilton, Hamilton, N.J.	Do.
Do	Middlesex	South Plainfield	H 34 023 3161 01 through H 34 023 3161 04	do	Office of the Borough Clerk, 2480 Plainfield Ave., South Plainfield, N.J. 07080.	Do.
Do	Monmouth	South Belmar, borough of.	H 34 025 3130 01	do	Mayor, P.O. Box 569, South Belmar, N.J. 07719.	Do.
New York	Broome	Whitney Point, village of.	H 36 007 6690 01	New York State Department of Environmental Conservation, Division of Resources Management Services, Albany, N.Y. 12201. New York State Insurance Department, 123 William St., New York, N.Y. 10038, and 324 State St., Albany, N.Y. 12210.	Mayor, Whitney Point, N.Y. 13862	Do.
Do	Cayuga	Fair Haven, village of.	H 36 011 1920 01 through H 36 011 1920 02	do	Office of Village Clerk, Cayuga St., Fair Haven, N.Y. 13064.	Do.
Do	Chautauqua	Falconer, village of.	H 36 013 1950 01	do	Village Board, 101 West Main St., Falconer, N.Y. 14733.	Do.
Do	do	Silver Creek, village of.	H 36 013 5710 01	do	Village Board, 172 Central Ave., Silver Creek, N.Y. 14136.	Do.
Do	Chenango	Norwich, city of	H 36 017 4350 01	do	Mayor, Municipal Bldg., Norwich, N.Y. 13815.	Do.
De	Cortland	Homer, village of	H 36 023 2760 01	do	Mayor, Village Hall, Homer, N.Y. 13977.	Do.
Do	Erie	Depew, village of	H 36 029 1500 01 through H 36 029 1500 03	do	Mayor, Village Hall, 571 Terrace Blvd., Depew, N.Y. 14043.	Do.
Do	Greene	Athens, village of	H 36 039 0290 01 through H 36 039 0290 02	do	Mayor, Village Hall, Athens, N.Y. 12015.	Do.
Do	Jefferson	Alexandria Bay, village of.	H 36 045 0090 01 through H 36 045 0090 02	do	Municipal Bldg., Church St., Alexandria Bay, N.Y. 13607.	Do.
Do	Madison	Cazenovia, village of.	H 36 053 1010 01	do	Mayor, Municipal Bldg., Albany St., Cazenovia, N.Y. 13035.	Do.
Do	Monroe	Wheatland, town of.	H 36 055 6664 01 through H 36 055 6664 06	do	Town of Wheatfield, 2884 Niagara Falls Blvd., North Tonawanda, N.Y. 14120.	Do.
Do	Montgomery	Canajoharie, village of.	H 36 057 0820 01	do	Mayor, Town Hall, Canajoharie, N.Y. 13317.	Do.
Do	Oneida	New Hartford, village of.	H 36 065 4080 01	do	Mayor, Village Hall, New Hartford, N.Y. 13413.	Do.
Do	do	Oriskany, village of.	H 36 065 4510 01	do	Mayor, Village Hall, Oriskany, N.Y. 13424.	Do.
Do	do	Whitesboro, village of.	H 36 065 6680 01	do	Mayor, Village Hall, Whitesboro, N.Y. 13492.	Do.
Do	do	Yorkville, village of.	H 36 065 6830 01	do	Mayor, Village Hall, Yorkville, N.Y. 13495.	Do.
Do	Onondaya	Manlius, town of	H 36 067 3504 04	do	Town Hall, 301 Brooklea Dr., Fayetteville, N.Y.	Do.
Do	Tioga	Newark Valley, town of.	H 36 107 4040 01 through H 36 107 4040 04	do	Town Clerk's Office, Newark Valley, N.Y. 13811.	Do.
North Carolina.	Ashe	Lansing, town of	H 37 009 2525 01	North Carolina Office of Water and Air Resources, Department of Natural and Economic Resources, P.O. Box 27687, Raleigh, N.C. 27611. North Carolina Insurance Department, P.O. Box 26387, Raleigh, N.C. 27611.	Chairman, Ashe County Board of Commissioners, town of Lansing, Jefferson, N.C. 28640.	Do.
Do	Carteret	Morehead City, town of.	H 37 031 3120 01 through H 37 031 3120 02	do	Town clerk, Municipal Bldg., Evans and 8th Sts., Morehead City, N.C. 28557.	Do.
Do	Craven	New Bern, city of	H 37 049 3250 01 through H 37 049 3250 02	do	City Hall, New Bern, N.C. 28560	Do.
Do	Gayes	Gatesville, town of.	H 37 073 1810 01	do	Gatesville manager, town of Gatesville, Gatesville, N.C. 27938.	Do.
Do	Hertford	Ahoskie, town of	H 37 091 0050 01 through H 37 091 0050 02	do	Town manager, Town Hall, Ahoskie, N.C. 27910.	Do.
Do	McDowell	Old Fort, town of	H 37 111 3430 01	do	Mayor, Town Hall, Old Fort, N.C. 28762.	Do.
Do	Orange	Carrboro, village of.	H 37 135 0780 01	do	Village clerk, village of Carrboro, Carrboro, N.C. 27510.	Do.

State	County	Location	Map No	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
*	*	*	*	*	*	*
Do	Pamlico	Alliance, town of	H 37 137 0073 01 through H 37 137 0073 02	do	Mayor, Town Hall, Alliance, N.C. 28509.	Do.
Do	do	Stonewall,	H 37 137 4480 01	do	Town manager, town of Stonewall, Stonewall, N.C. 27105.	Do.
Do	do	Vandemere, town of.	H 37 137 4730 01	do	Town manager, town of Vandemere, Vandemere, N.C.	Do.
Do	Randolph	Franklinsville, town of.	H 37 151 1720 01	do	Chairman, County Commissioners, Courthouse, town of Franklinsville, Asheboro, N.C. 27203.	Do.
Do	Rowan	East Spencer, city of.	H 37 159 1420 01	do	Mayor, City Hall, East Spencer, N.C. 28039.	Do.
Do	do	Salisbury, city of	H 37 159 4070 01 through H 37 159 4970 04	do	Mayor, City Hall, Salisbury, N.C. 28144.	Do.
Oklahoma	Garfield	Enid, city of	H 40 047 1550 01 through H 40 047 1550 22	Oklahoma Water Resources Board, 2241 Northwest 40th St., Oklahoma City, Okla. 73701. Oklahoma Insurance Department, Room 408, Will Rogers Memorial Bldg., Oklahoma City, Okla. 73105.	Convention Hall, Cherokee and Independence, Enid, Okla. 73701.	Do.
Oregon	Benton	Philomath, city of.	H 41 003 1620 01	Executive Department, State of Oregon, Salem, Oreg. 97310. Oregon Insurance Division, Department of Commerce, 158 12th St. NE., Salem, Oreg. 97310.	Mayor, City Hall, Philomath, Oreg. 97370.	Do.
Do	Lane	Cottage Grove, city of.	H 41 039 0430 01 through H 41 039 0430 02	do	Mayor, City Hall, Cottage Grove, Oreg. 97424.	Do.
Do	Linn	Albany, city of	H 41 043 0020 01 through H 41 043 0020 04	do	Mayor, City Hall, Albany, Oreg. 97321.	Do.
Pennsylvania	Beaver	Ambridge, borough of.	H 42 007 0160 01	Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg, Pa. 17120. Pennsylvania Insurance Department, 108 Finance Bldg., Harrisburg, Pa. 17120.	Mayor, Borough Bldg., Ambridge, Pa. 15003.	Do.
Do	do	Beaver Falls, city of.	H 42 007 0480 01 through H 42 007 0480 02	do	Mayor, Municipal Bldg., Beaver Falls, Pa. 15010.	Do.
Do	do	Bridgewater, borough of.	H 42 007 0890 01 through H 42 007 0890 02	do	Mayor, Borough Bldg., Bridgewater, Pa. 15009.	Do.
Do	Clearfield	Curwensville, borough of.	H 42 033 1830 01 through H 42 033 1830 04	do	Mayor, borough of Curwensville, Curwensville, Pa. 16833.	Do.
Do	Columbia	Bloomsburg, town of.	H 42 037 0740 01 through H 42 037 0740 02	do	Secretary, Town Hall, Bloomsburg, Pa. 17815.	Do.
Do	Fayette	Fayette City, borough of.	H 42 051 2820 01	do	Mayor, 118 South High St., Fayette City, Pa. 15438.	Do.
Do	Lycoming	Armstrong, township of.	H 42 081 0206 01 through H 42 081 0206 08	do	Mr. Jack A. Reigle, Rural Delivery No. 3, South Williamsport, Pa. 17701.	Do.
Do	do	Gamble, township of.	H 42 081 3124 01 through H 42 081 3124 03	do	Gamble Township Community Hall, c/o Mrs. Edna Hipple, Trout Run, Pa. 17771.	Do.
Do	Perry	Oliver, township of.	H 42 099 6241 01 through H 42 099 6241 02	do	Oliver Township Office, Bloomfield Ave., Newport, Pa. 17074.	Do.
Do	Union	New Berlin, borough of.	H 42 119 5760 01	do	President, Borough Council, 115 Water St., New Berlin, Pa. 17855.	Do.
Do	Schuylkill	Tremont, borough of.	H 42 107 8550 01 through H 42 107 8550 02	do	Borough of Tremont, Borough Hall, 56 East Main St., Tremont, Pa. 17981.	Do.
Do	York	Fairview, township of.	H 42 133 2274 01 through H 42 133 2274 05	do	Fairview Township Bldg., rural delivery 1, New Cumberland, Pa. 17070.	Do.
Tennessee	Carroll	Huntingdon, town of.	H 47 017 1180 01 through H 47 017 1180 05	Tennessee State Planning Office, 660 Capitol Hill Bldg., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking, 114 State Office Bldg., Nashville, Tenn. 37219.	Mayor, P.O. Box 666, Huntingdon, Tenn. 38344.	Do.
Do	Shelby	Bartlett, city of	H 47 157 0160 01 through H 47 157 0160 05	do	Mayor, city of Bartlett, Bartlett, Tenn. 38005.	Do.
Texas	Angelina	Lufkin, city of	H 48 005 4160 01 through H 48 005 4160 07	Texas Water Development Board, P.O. Box 13087, Capitol Station, Austin, Tex. 78711. Texas Insurance Department, 1110 San Jacinto St., Austin, Tex. 78701.	Engineering Department, Drawer 190, Lufkin, Tex. 75901.	Do.
Do	Dallas	Sachse, city of	H 48 113 6053 01 through H 48 113 6053 03	do	Mayor, Route No. 2, city of Sachse, Box 153-C, Garland, Tex. 75040.	Do.
Do	Harrison	Marshall, city of	H 48 203 4360 01 through H 48 203 4360 03	do	City manager, Box 698, Marshall, Tex. 75670.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of areas which have special flood hazards
Do	McLennan	McGregor, city of	H 48 309 4220 01 through H 48 309 4220 04	do	Mayor, P.O. Box 192, McGregor, Tex. 76657.	Do.
Do	Tarrant	Mansfield, city of	H 48 439 4300 01	do	Mayor, P.O. Box 400, Mansfield, Tex. 76063.	Do.
Vermont	Caledonia	Barnet, town of	H 50 005 0038 01 through H 50 005 0038 04	Management and Engineering Division, Water Resources Department, State Office Bldg., Montpelier, Vt. 05602. Vermont Insurance Department, State Office Bldg., Montpelier, Vt. 05602.	Chairman, Barnet Board of Selectmen c/o town clerk, West Burke, Vt. 05871.	Do.
Do	Windsor	Springfield, town of	H 50 027 0630 01 through H 50 027 0630 06	do	Town manager, Municipal Bldg., Springfield, Vt. 05156.	Do.
Virginia	Independent City	Franklin, city of	H 51 000 1010 01	Bureau of Water Control Management, State Water Control Board, 2d floor Davenport Bldg., 11 South 10 St., Richmond, Va. 23219. Virginia Insurance Department, 200 Blanton Bldg., P.O. Box 1157, Richmond, Va. 23209.	City manager, Municipal Bldg., Franklin, Va. 23851.	Do.
Wisconsin	Milwaukee	Bayside, city of	H 55 079 0365 01	Department of Natural Resources, P.O. Box 450, Madison, Wis. 53703. Wisconsin Insurance Department, 212 North Bassett St., Madison, Wis. 53703.	Bayside City Hall, 9075 North Regent Rd., Milwaukee, Wis. 53217.	Do.
Do	do	Whitefish Bay, city of	H 55 079 5271 01	do	City Hall, 5300 North Malborough Dr., Whitefish Bay, Wis. 53217.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: February 13, 1974.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.74-4239 Filed 2-22-74;8:45 am]

Title 30—Mineral Resources

CHAPTER I—BUREAU OF MINES, DEPARTMENT OF THE INTERIOR

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 75—MANDATORY SAFETY STANDARDS, UNDERGROUND COAL MINES

PART 77—MANDATORY SAFETY STANDARDS, SURFACE COAL MINES AND SURFACE WORK AREAS OF UNDERGROUND COAL MINES

Distinctively Colored Hard Hats or Hard Caps for Inexperienced Miners

Pursuant to the authority contained in section 101(a) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 745; (30 U.S.C. 811(a))), there was published, as notice of proposed rulemaking, in the FEDERAL REGISTER for October 5, 1973 (38 FR 27621), amendments to § 75.1720(d), a new § 75.1720–1, amendments § 77.1710 and a new § 77.1710–1 of Part 75 and Part 77, Subchapter O, chapter I, Title 30, Code of Federal Regulations, setting forth mandatory standards requiring that newly employed, inexperienced miners in underground coal mines, surface coal mines and in the surface work areas of underground coal mines wear a distinctively colored hard hat or hard cap.

Interested persons were afforded a period of 45 days following publication within which to submit to the Director, Bureau of Mines, written comments, suggestions, or objections to these proposed mandatory safety standards. Due consideration has been given to all comments received in response to the notice, insofar as they relate to matters within the scope of the notice.

One comment noted the potential hazard of use of metallic based paint on a hard hat or hard cap. The Secretary agrees that such a potential hazard would exist regardless whether the metallic based paint was applied to the hat or cap of an experienced miner or a newly employed, inexperienced miner, and the wording of § 75.1720(d) and § 77.1710(d) has been changed accordingly.

It was also recommended by a commentator that newly employed, inexperienced miners, under §§ 77.1710(d) and 77.1710–1, wear a distinctively colored hard hat or hard cap at all times, rather than only where falling objects may create a hazard. Two commentator's objecting to the proposed § 75.1710–1, opposed the wearing of distinctively colored hard hats or hard caps at any time. In this regard, it is determined that the principal purpose of the proposed regulations is to provide an effective means of quickly identifying a newly employed, inexperienced miner, so as to enable his supervisors and experienced coworkers to be alert to the inexperienced worker, his work practices and methods, and the mining conditions surrounding him. It is felt that the purpose of the regulations would be served best by requiring the newly employed, inexperienced miner under Part 77 to wear a distinctively colored hard hat or hard cap at all times, and the wording of § 77.1710–1 has been changed accordingly.

Part 75 and Part 77, Subchapter O, Chapter I, of Title 30 are herewith modified and amended as set forth below.

These amendments shall be effective on March 15, 1974.

WILLIAM A. VOGELY,
Acting Deputy Assistant Secretary of the Interior.

FEBRUARY 20, 1974.

Part 75 and Part 77, Subchapter O, Chapter I, Title 30, Code of Federal Regulations are amended as follows:

1. In § 75.1720, paragraph (d) is amended as follows:

§ 75.1720 Protective clothing; requirements.

* * * * *

(d) A suitable hard hat or hard cap. If a hard hat or hard cap is painted, nonmetallic based paint shall be used.

* * * * *

2. A new § 75.1720–1 is added to Part 75 as follows:

§ 75.1720–1 Distinctively colored hard hats, or hard caps; identification for newly employed, inexperienced miners.

Hard hats or hard caps distinctively different in color from those worn by experienced miners shall be worn by each newly employed, inexperienced miner for at least one year from the date of his initial employment as a miner or until he has been qualified or certified as a miner by the State in which he is employed.

3. In § 77.1710, the introductory paragraph and paragraph (d) is amended as follows:

§ 77.1710 Protective clothing; requirements.

Each employee working in a surface coal mine or in the surface work areas of an underground coal mine shall be required to wear protective clothing and devices as indicated below:

* * * * *

(d) A suitable hard hat or hard cap when in or around a mine or plant where falling objects may create a hazard. If a hard hat or hard cap is painted, nonmetallic based paint shall be used.

* * * * *

4. A new § 77.1710–1 is added to Part 77 as follows:

§ 77.1710–1 Distinctively colored hard hats or hard caps; identification for newly employed, inexperienced miners.

Hard hats or hard caps distinctively different in color from those worn by experienced miners shall be worn at all times by each newly employed, inexperienced miner when working in or around a mine or plant for at least one year from the date of his initial employment as a miner or until he has been qualified or certified as a miner by the State in which he is employed.

[FR Doc.74–4289 Filed 2–22–74;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 28—PUBLIC ACCESS, USE AND RECREATION

Operation of Vehicles on National Wildlife Refuges

Section 3 of Executive Order 11644 requires that the heads of Federal agencies shall develop and issue regulations and administrative instructions to provide for administrative designation of the specific areas and trails on public lands on which the use of off-road vehicles may be permitted, and areas in which the use of off-road vehicles may not be permitted.

The regulations of the Bureau of Sport Fisheries and Wildlife have been reviewed in light of Executive Order 11644, and it has been determined that with the exception of § 28.7 the existing regulations are adequate to carry out the purpose of that Executive order.

On page 4405 of the FEDERAL REGISTER of February 14, 1973, there was published a notice of proposed rulemaking to amend § 28.7—*Operation of Vehicles.* The amendment established additional regulations concerning the operation of off-road vehicles on lands under the jurisdiction of the Bureau of Sport Fisheries and Wildlife. Interested persons were given an opportunity to submit comments, suggestions and objections regarding the proposed amendment. All comments submitted were given due consideration.

The proposed amendment adding new paragraphs (i) and (j) to § 28.7 is hereby adopted without change as set forth below.

Effective date: The amendment is effective March 15, 1974.

§ 28.7 Operation of vehicles.

* * * * *

(i) All vehicles shall be equipped with a proper muffler in good working order and in constant operation that conforms to the laws of the State in which the refuge is located and no vehicle shall have a muffler cutout, bypass, or similar device. A vehicle that produces unusual or excessive noise or other pollutants shall not be permitted. A Refuge Manager, by posting of appropriate signs or by marking on a map which shall be available in the office of the Refuge Manager, may require that a motor vehicle operating off established road and parking areas, shall be equipped with a spark arrestor that meets standard 5100–1a of the Forest Service, U.S. Department of Agriculture, which standard includes the requirement that such spark arrestor shall have an efficiency to retain or destroy at least 80 percent of carbon particles, for all flow rates, and which includes a requirement that such spark arrestor has been warranted by its manufacturer as meeting the above-mentioned efficiency requirement for at least 1,000 hours, subject to normal use, with maintenance and mounting in accordance with the manufacturer's recommendation.

(j) A motor vehicle shall not be operated at any time without proper brakes, or from a half-hour after sunset to a half-hour before sunrise without working headlights and taillights which comply with the laws and regulations for operations on the roads of the State within whose boundaries the refuge is located.

LYNN A. GREENWALT,
Director, Bureau of Sport Fisheries and Wildlife.

FEBRUARY 19, 1974.

[FR Doc.74–4288 Filed 2–22–74;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY OFFICE

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Removal of Exemption for State and Local Government Sales

On October 25, 1973, the Cost of Living Council issued a notice of proposed rule making proposing to remove the exempt status for prices charged by State and local governments in sales of "covered products," as defined in the Cost of Living Council Regulations, 6 CFR Part 150, Subpart L. Pursuant to Delegation Order Number 47 issued by the Council on December 26, 1973 (39 FR 24) the Federal Energy Office assumed responsibilities for price regulation of "covered products," as now defined in the FEO Regulations, 10 CFR 212.31, including the outstanding rule making proposal. The price exemption for sales by State and local governments was provided for at 6 CFR 150.54 in the Cost of Living Council Regulations and is now provided for at 10 CFR 212.52(b) of the FEO regulations.

The FEO has reviewed the comments that were submitted and has concluded that the sale of covered products, including crude oil, by State and local governments should not be exempt from the price regulations of Part 212.

In its notice initiating this rule making proceeding, the Cost of Living Council indicated that it was aware that certain government units as lessors of crude petroleum fields had the option to take royalty payment in kind and that under the existing regulations the sales of products including crude petroleum and refined petroleum products were exempt from price regulation. The proposed rule change would result in such sales being treated just as sales by any other firm. Comments were solicited on the impact of the proposed rule change on supply and price stabilization, and, more specifically, on the impact of the proposed rule on total domestic sales of crude petroleum, on the regulatory scheme of a mandatory allocation program, on possible changes in traditional supply patterns, and the impact in light of the curtailment of sales of foreign crude petroleum to the United States.

Comments submitted in this proceeding indicate that, although exact figures were not supplied, the quantity of crude oil being taken in kind and sold by State or local governments is a relatively small portion of the overall amount of crude oil being purchased in the United States. The FEO does not believe that the relatively small quantities of crude oil that are involved at present provide a sufficient basis for continuing the exemption, however, in light of further considerations described below.

Insofar as the FEO can determine, the price exemption has no significant impact on the supply of crude oil, since royalty crude oil typically represents a specified percentage of the production under a lease, where the amount produced is independent of the prices that can be obtained by a State or local government for its royalty crude oil. Thus, there is no basis for continuing the exemption in order to encourage additional domestic production of crude oil. This is in contrast to the exemption from price regulation provided for by the Congress for crude oil produced by "stripper well" leases, and the exemption provided by the regulations for so-called "new" oil. Both of these exemptions are designed to stimulate domestic oil production.

The Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, enacted after this rulemaking proceeding was initiated, on November 27, 1973, has among its objectives the minimizing of dislocations in the national distribution system of crude oil and refined petroleum products. The FEO finds that the price exemption for the sale of covered products, particularly crude oil, by State and local governments, if it is not removed, would tend to have a disruptive impact on the national distribution system. Substan-

tially higher prices can now be obtained for crude oil at wholly uncontrolled prices than can be obtained for domestically produced crude oil which, except for new oil and stripper well oil, is subject to ceiling prices. It appears that much of the crude oil sold by State and local governments is purchased by small independent refiners which, if they are required to pay the substantially higher prices now obtainable for uncontrolled crude oil, may experience severe competitive harm. Thus, although the relative quantity of crude oil involved is small, the effects of the exemption are focused on a particular segment of the industry, and the preservation of the competitive viability of small and independent refiners, which is a specific objective of the Act, would not be adequately accomplished unless the exemption is removed.

A further reason for eliminating the exemption is to eliminate the opportunity and incentive for State and local governments to seek to enter into agreements or arrangements regarding the sale of covered products which they would not otherwise enter into, and which could tend to result into further dislocations in the national distribution system which the Act seeks to preserve. Thus, for example, concern has been expressed that some States and local governments which have not done so to date have now begun to consider taking royalty oil in kind in order to reap the benefits of the sharply higher uncontrolled price of uncontrolled oil. This practice would tend to undermine existing supplier relationships and magnify the inflationary effects of the exemption.

Certain government units have urged that removal of the exemption would deprive them of added revenues. The FEO has concluded, however, that substantial additional revenues have already been realized by State and local governments from royalty crude oil due to the increases in the crude oil ceiling prices pursuant to the provisions of Subpart D of 10 CFR Part 212. The FEO believes that the still further revenues obtainable through the sale of crude oil at uncontrolled prices would represent, in effect, windfall revenues for those State and local governments having crude oil interests, at the expense of the adverse impact on the overall objectives of Act, as discussed above.

The Notice of proposed rulemaking explicitly provided that "if ultimately adopted, this regulation would be effective as of 9:00 a.m. e.s.t., October 25, 1973, the date on which this notice is filed with the FEDERAL REGISTER. It would apply to any delivery of covered products occurring after that date." Accordingly, the change in regulations adopted herein is effective and applies to all sales of covered products by State and local governments on or after 9:00 a.m., e.s.t., October 25, 1973.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, E.O. 11748, 38 FR 33575; Economic Stabilization Act of 1970, as amended, Pub. L. 92-910, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11730, 38 FR 19345; Cost of Living Council Order Number 47, 39 FR 24)

In consideration of the foregoing, Part 212, Title 10 of the Code of Federal Regulations is amended by deleting § 212.52(b).

Issued in Washington, D.C., February 21, 1974.

WILLIAM N. WALKER,
General Counsel,
Federal Energy Office.

[FR Doc.74-4515 Filed 2-21-74;5:01 pm]

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 150—COST OF LIVING COUNCIL PHASE IV PRICE REGULATIONS

Appendix to Subpart K: Special Rule for Automobile Wholesalers and Retailers

The purpose of the following amendment to the Special Rule for Automobile Wholesalers and Retailers, Appendix to Subpart K, is to prevent a possible inequity created by the Special Rule as originally published.

It has come to the Council's attention that automobile retailers and wholesalers on the West Coast generally do not use the N.A.D.A. Official Used Car Guide to place a value on the trade-ins they receive. For example, the Kelly Blue Book is used by a majority of the automobile retailers and wholesalers in California. Furthermore, back copies of the N.A.D.A. Official Used Car Guide are not available to firms that have not historically used it. For this reason the Council has decided to allow automobile retailers and wholesalers to use the used car guide they have historically used to place a value on the trade-ins they receive.

Because the purpose of this amendment is to provide immediate guidance and information with respect to the decisions of the Council, the Council finds that publication in accordance with normal rule-making procedure is impracticable and that good cause exists for making this amendment effective in less than 30 days. Interested persons may submit written comments regarding these regulations. Communications should be addressed to the Office of the General Counsel, Cost of Living Council, 2000 M Street, NW., 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)

In consideration of the foregoing, Part 150 of Title 6 of the Code of Federal Regulations is amended as set forth herein, effective November 21, 1973.

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

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

In 6 CFR Part 150, the Appendix to Subpart K, Special Rule for Automobile Wholesalers and Retailers, is amended in Paragraphs 2 and 3 to read as follows:

APPENDIX—SPECIAL RULE FOR AUTOMOBILE WHOLESALERS AND RETAILERS

* * * * *

2. *Computation of adjusted freeze prices.* (a) For the purposes of this Special Rule—"Freeze base period" means freeze base period as defined in § 140.2 of this chapter.

"Sales price" means the monetary remuneration received plus the National Automobile Dealers Association (N.A.D.A.) Official Used Car Guide (or other nationally or regionally published used car guide historically used by the dealer) trade-in value of a used automobile or truck received in partial payment for a new automobile or truck.

* * * * *

3. *General price control rules.* Notwithstanding paragraph (b) of § 150.304, all firms to which this rule applies will be controlled on the basis of gross margins received. In computing its gross margins, the firm shall include as part of its total revenues realized from the sales of merchandise, the N.A.D.A. Official Used Car Guide (or other nationally or regionally published used car guide historically used by the dealer) trade-in value of each used automobile or truck it receives in partial payment for a new automobile or truck.

The application of these rules may be illustrated by the following example:

Example. During the period from June 1, 1973 through June 8, 1973, X, a Chevrolet dealer, sold five Impalas. The cost and sales price of each were as follows:

	Cost	Sales price = (Cash + Trade-in value)		Markup	
					Percent
Car No. 1	$3,200	$3,700	$3,700	----------	15.6
Car No. 2	3,400	4,000	3,100	$ 900	17.6
Car No. 3	3,700	4,200	3,700	500	13.5
Car No. 4	3,800	4,400	3,400	1,000	15.8
Car No. 5	4,000	4,800	3,600	1,200	20

The highest markup used in at least 10 percent of the transactions is a 20 percent markup, as that was the markup used in one of the five transactions (Car No. 5). To compute adjusted freeze prices for Impalas, X applies that 20 percent markup to the June 1–June 8 cost of each model of Impala and to the June 1–June 8 cost of each accessory that may be sold with it. The adjusted freeze prices for the cars X is currently selling are the sum of the prices so derived for the basic Impalas and for each accessory sold on the car. X will compute his adjusted freeze prices for each series of automobiles, e.g., Caprice, Corvette, etc., in the same manner.

X must monitor his compliance with the regulations by the gross margin system computed on a category basis. An automobile dealer is allowed to determine his merchandise categories on the basis of different makes of cars. Therefore, since X sells only Chevrolets, that makes it his one merchandise category.

X computes his gross margin for the quarter according to the formula contained in § 150.303(b):

$$\text{Gross Margin} = \frac{\text{Revenues} - \text{Cost}}{\text{Revenues or Cost}} \times 100$$

In computing his total sales revenues, X must combine the monetary remuneration he has received for the automobiles sold with the N.A.D.A. Official Used Car Guide (or other nationally or regionally published used car guide historically used by the dealer) trade-in value of each used automobile or truck he accepted in part payment for a new automobile. For example, X sold an Impala for $3,500 in cash plus a trade-in allowance on the purchaser's used car (a 1969 Nova, 6-cylinder, 2-door coupe with power steering and factory air-conditioning and average mileage) of $700. For the purposes of Subpart K, X's revenues on the sale of this car are not $4,200, but rather $4,500. This is computed as follows:

Cash: $3,500.

	Trade-in Value
Average trade-in	$950
Add power steering	25
Add factory air conditioning	25
Used car trade-in value as stated in N.A.D.A. official used car guide or guide historically used	1,000

[FR Doc.74-4489 Filed 2-22-74;10:23 am]

Proposed Rules

DEPARTMENT OF THE TREASURY

United States Customs Service

[19 CFR Part 4]

VESSELS IN FOREIGN AND DOMESTIC TRADES

Proposed Information Required on Manifest Used in Connection With Coastwise Transportation

Notice is hereby given that under the authority of 5 U.S.C. 301, section 2, 23 Stat. 118, as amended (46 U.S.C. 2), section 27, 41 Stat. 999, as amended (46 U.S.C. 883), and section 624, 46 Stat. 759 (19 U.S.C. 1624), it is proposed to amend § 4.93(c) of the Customs Regulations (19 CFR 4.93(c)), to permit empty vans, tanks, and barges, equipment for use with vans and tanks, empty instruments of international traffic, and stevedoring equipment and material to be manifested at the port of lading without including their identification numbers or symbols or other identifying data, provided the manifest includes a statement that the district director at the port of unlading will be presented with a statement at the time of entry of the vessel that will list the identifying numbers or symbols or other appropriate data for the articles to be unladen at that port.

The proposed amendment is necessary because it has been found that the loading of such articles on a foreign vessel for movement from one coastwise port to a second coastwise port is the last action prior to sailing, and it is difficult for the carrier to list timely the number and symbol of each article without delaying the vessel. Furthermore, when a number of identical articles are being transported to two or more coastwise ports, it is sometimes not known which specific article will be unladen at which port, and identification by number or symbol on the manifest by port or destination results in a cumbersome operation.

The proposed amendment also points out that violations of the requirements set forth in § 4.93(c) are subject to applicable penalties under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584).

Accordingly, it is proposed to amend paragraph (c) of § 4.93 to read as follows:

§ 4.93 Coastwise transportation by certain vessels of empty vans, tanks, and barges, equipment for use with vans and tanks; empty instruments of international traffic; stevedoring equipment and material; procedures.

* * * * *

(c) Any manifest required to be filed under this part by any foreign vessel shall describe any article mentioned in paragraph (a) of this section laden aboard and transported from one United States port to another, giving its identifying number or symbol, if any, or such other identifying data as may be appropriate, the names of the shipper and consignee, and the destination. The manifest shall also include a statement (1) that the articles specified in paragraph (a)(1) of this section are owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade; or (2) that the stevedoring equipment and material specified in paragraph (a)(2) of this section is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for use in the handling of cargo in foreign trade. If the district director at the port of lading is satisfied that there will be sufficient control over the coastwise transportation of the article without identifying it by number or symbol or such other identifying data on the manifest, he may permit the use of a manifest that does not include such information provided the manifest includes a statement that the district director at the port of unlading will be presented with a statement at the time of entry of the vessel that will list the identifying number or symbol or other appropriate identifying data for the article to be unladen at that port. Applicable penalties under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), shall be assessed for violation of this paragraph.

Data, views, or arguments with respect to the foregoing proposal may be addressed to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229. To insure consideration of such communications, they must be received on or before March 27, 1974.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.8(b) of the Customs regulations (19 CFR 103.8(b)), at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

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

Approved: February 15, 1974.

JAMES B. CLAWSON,
Assistant Secretary of the Treasury.

[FR Doc.74-4321 Filed 2-22-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1006, 1012, 1013]

[Docket Nos. AO 356-A10 etc.]

MILK IN THE UPPER FLORIDA, TAMPA BAY, AND SOUTHEASTERN FLORIDA MARKETING AREAS

Partial Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Upper Florida, Tampa Bay, and Southeastern Florida marketing areas.

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, on or before March 12, 1974. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders, as amended, were formulated, was conducted at Orlando, Florida, on May 24, 1972, pursuant to notice thereof which was issued on May 9, 1972 (37 FR 9565).

The material issues on the record of the hearing relate to:

1. Revision of the location adjustment of Orders 6, 12 and 13.

2. Change of pricing point on diverted milk under Orders 12 and 13.

3. Elimination of the mileage limitation on transfers and diversions of Class II milk to nonpool plants under Order 13.

4. Revision of order format for all three orders.

5. Adoption of a Class II classification for cream and cream products under all three orders.

Issues 1, 2, 3, and 4 were dealt with in an earlier decision. This decision deals with the remaining issue, No. 5.

Proponents of Issue 5 testified at the hearing that their proposal was offered so that the classification of cream and cream products under the three orders could be modified to coincide with whatever classification was ultimately adopted for such products under the 40-market classification proceedings on which decisions were then pending.[1] Since final decisions are now being issued dealing with the classification of cream and cream products under the 40 orders, it is appropriate that Issue 5 be considered at this time.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

5. Adoption of a Class II classification for cream and cream products under all three orders. The provisions of the three Florida orders should not be changed on the basis of this record to provide a Class II classification for cream and cream products, including eggnog.

Each of these orders now provides a Class I classification for sweet cream, mixtures of sweet cream and milk or skim milk, and eggnog. Sour cream and sour cream products (e.g., dips), aerated cream, and aerated cream products, however, are designated Class II products.

Handlers whose operations are fully regulated under these orders must account for their milk receipts from dairy farmers (producers) in accordance with actual use as Class I milk or Class II milk (Southeastern Florida order also provides a Class III classification for milk, the skim milk portion of which is disposed of for fertilizer or livestock feed, or is dumped) at the specified order class prices.

Under these prices, handlers' costs for skim milk and butterfat used in Class I (on a 3.5 percent butterfat content basis) is the basic formula price (Minesota-Wisconsin manufacturing milk pay price) for the second preceding month plus $2.85 in Upper Florida, $2.95 in Tampa Bay, and $3.15 in Southeastern Florida. The cost for skim milk and butterfat disposed of as Class II milk is the basic fomula price for the month plus 15 cents. Differential butterfat used in Class I is priced at a flat value of 7.5 cents per point, while the Class II butterfat differential is computed by multiplying the Chicago butter price by 0.115.

Handlers operating partially regulated distributing plants (i.e., distributing plants with route disposition in the marketing area insufficient to meet the pooling standards for full regulation) alernatively may have their pool obligation computed as though their plant were a pool plant, subject to specified modifications, or at the difference between the Class I price and the uniform price on the volume of their in-area Class I sales in excess of offsetting purchases of Class I milk from pool plants or from other order plants.

A partially regulated handler distributing cream and cream products in the three markets proposed that the orders be amended to provide a Class II classification for cream, mixtures of cream and milk or skim milk containing 9 percent or more butterfat and for eggnog containing 6 percent or more butterfat. Proponent indicated that he neither processes nor markets eggnog, but included such product in his proposed classification change to coincide with the proposals made by the principal cooperatives at the 40-market regional classification hearings.

The proponent handler operates a plant located at Jacksonville, Florida. The plant processes and packages principally whipping cream, light cream, and half and half that are distributed within the three marketing areas as well as in non-federally regulated areas. The plant also packages and processes aerated cream that is widely distributed in markets throughout the eastern United States. It was proponent's position that if, as a result of the 40-market classification hearings, cream products were classified as Class II (intermediate class in a 3-class market) in the surrounding Federally regulated markets in the Southeast (New Orleans, Georgia, Chattanooga, Nashville and Mississippi [now terminated]), he would be unable to compete equitably for sales in the Florida markets with handlers from adjacent markets because of his propsectively higher procurement costs. He was concerned also that he would be disadvantaged in selling cream and cream products in nearby markets in competition with plants located in such markets.

A second partially regulated handler also proposed a Class II classification for heavy cream, light cream, half and half and eggnog. This handler's plant, located at Lakeland, Florida, processes and distributes cultured milk and milk products over a wide area extending throughout Florida, the Caribbean area, the southeastern states and the States of New York, New Jersey and Pennsylvania.

Only one regulated handler voiced support for the proposed classification change for cream and cream products. His support was conditioned on there being no change in the specified minimum class prices. He opposed changing the classification of eggnog from Class I to Class II contending that resale prices for eggnog in the Florida markets appear to have little, if any, relationship to raw product procurement costs. He testified that the out-of-store prices for eggnog throughout most of Florida did not increase when the product (which prior to April 1970 was a Class II product as defined in the Florida orders) was reclassified to be a Class I product. In the Miami area the retail price for eggnog in fact declined, he stated, after the product was reclassified.

The spokesman for the cooperative associations representing producers in the three markets opposed any change in the classification of cream, cream products and eggnog unless the Class I prices under the respective orders were increased to offset the reduction in producer returns that he held, would otherwise result from the proposed change in classification. He pointed out that in each of the markets Class I disposition from pool plants during some months each year actually exceeds receipts from producers. As a further indication of the generally short milk supply, he noted that the percentage of producer milk used in Class I during 1971 averaged 93, 89 and 91 percent for the Upper Florida, Tampa Bay and Southeastern Florida markets, respectively. Any reduction in returns to producers, he held, could only result in a decline in milk production in these markets.

He calculated that based on data for 1971, the proposed change in classification would have resulted in a $525,000 decrease in producer returns in the three markets. To offset this loss, he said, would require an increase of 4 cents in the Class I prices or, alternatively, a 32-cent increase in the Class II prices.

On the basis of this limited record the three Florida orders appropriately may not be amended to adopt the changes being made with respect to cream, cream mixtures and eggnog in the markets involved in the other classification proceedings referred to above. The basic difference existing between the latter orders and the Florida orders with respect to product classification, class prices, butterfat differentials, transfer provisions, allocation provisions, and methods of classifying end-of-month inventories, for example, were not considered on this record. Accordingly, the uniformity which proponents seek cannot be achieved without further hearing.

In addition, the relationship between the Class I and Class II prices under the Florida orders that existed at the time of the hearing has changed significantly.[2] At the time of the hearing (May 1972), the difference between the Class I and Class II prices (on a 3.5 percent butterfat content basis) under the Southeastern Florida order, for example, was $3.10. During December 1973, such prices differed by $2.55. This narrowing of the prices was accompanied by an increase spread between Class I and Class II in the Class II butterfat differential from 0.078 to 0.083. As a result of such price changes, the cost of half and half (10 percent butterfat) priced at a pool plant under the Southeastern Florida order, which during May 1972 was $2.90 per hundredweight higher as a Class I product than would have been the situation had the product been Class II, had declined to the point that the difference was $2.03 in December 1973. The cost of cream containing 40 percent butter-

[1] One of the markets in the proceedings is no longer under Federal regulation (Mississippi order was terminated April 30, 1973).

[2] Official notice is taken of the May 1972 and December 1973 *Market Statistics* for Orders 6, 12, and 13 published by the market administrator.

fat during May 1972 was $2 per hundred weight higher as Class I than would have been the case had such product been Class II. During December 1973, however, handlers' costs for cream would have been $0.37 per hundredweight higher as a Class II product than actually was the case with the product in Class I.

Partially regulated distributing plants may elect to purchase their milk supplies from other than the local market. A partially regulated plant under any of the Florida orders could procure milk from handlers regulated under the Georgia order, for example. Under the amendments contained in the 40-market classification decision, such milk sold by Georgia handlers to a plant that is a partially regulated distributing plant under any of the Florida orders and disposes of cream and cream products would be priced at the Minnesota-Wisconsin manufacturing milk price plus 10 cents.

The partially regulated distributing plant's pool obligation on its sales within any of the Florida markets would be the difference between the particular Florida order's Class I price and its blend price. There would be no obligation on sales outside the regulated marketing areas. In recent months there has been little difference between the Class I and blend prices in any of the Florida markets.

In view of the above, it is not apparent that either regulated or partially regulated handlers would be significantly disadvantaged at this time under the existing order provisions.

Because of the higher level of surplus milk pricing and the lower Class I butterfat differential provided in the Florida orders, as compared with neighboring orders, there is no means by which the uniformity of pricing of cream, cream products and eggnog as between the Florida and surrounding Federal order markets can be achieved on the basis of this record. It is concluded, therefore, that no further order changes should be made on the basis of this record. The request for change in the classification of cream and cream products and eggnog is denied.

If interested parties believe that it is desirable to corollate the provisions of the Florida markets with the modifications made in the 40 orders as a result of the classification hearings, appropriately a hearing may be requested for that purpose in order that all the pertinent provisions may be considered.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

DETERMINATION

The findings and conclusions of this decision do not require any change in the regulatory provisions of the orders regulating the handling of milk in the Upper Florida, Tampa Bay, and Southeastern Florida marketing areas.

Signed at Washington, D.C., on: February 19, 1974.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.74-4292 Filed 2-22-74;8:45 am]

Animal and Plant Health Inspection Service

[9 CFR Parts 317, 381]

INFORMATION PANEL AND NUTRITION LABELING

Notice of Proposed Rulemaking; Correction

The notice of proposed rulemaking published in the FEDERAL REGISTER of January 11, 1974 (39 FR 1606-1614, FR Doc. 74-527), concerning nutrition labeling and an information panel on meat and poultry products, contains two errors.

1. In the text proposed for § 317.2(c)(4), in the third line, the paragraph designation "(k)" should read "(h)".

2. In the text proposed for § 381.116(d)(1)(i), in the fourth line, the word "poultry" should be deleted.

Done at Washington, D.C., on February 15, 1974.

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

[FR Doc.74-4370 Filed 2-22-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVES

Proposed Revocation of Use of Two Boiler Water Additives

Acting on a petition submitted by Nalco Chemical Co., Chicago, IL 60601, an order was published in the FEDERAL REGISTER of February 6, 1963 (28 FR 1140) which amended § 121.1088 *Boiler water additives* (21 CFR 121.1088) to prescribe the safe use of the two items, monobutyl ether of polyoxyethylene glycol and monobutyl ether of poloxypropylene glycol, as boiler water additives in the preparation of steam that will contact food.

Published elsewhere in this issue of the FEDERAL REGISTER is an order responding to a petition submitted by Union Carbide Corp., Tarrytown, NY amending § 121.1088 to provide for the use of a copolymer of monobutyl ethers of polyethylene-polypropylene glycol as a boiler water additive in the preparation of steam intended for food contact. Following the filing of the Union Carbide petition, Nalco Chemical Co. advised the Food and Drug Administration that the subject of their earlier petition was in fact the same copolymer proposed by Union Carbide Corp. but inadvertently identified in their petition and subsequently listed under § 121.1088(c) as the individual polyglycol ethers.

In view of the foregoing, the Commissioner of Food and Drugs concludes that the individual polyglycol ethers cannot be authorized under § 121.1088(c) in the absence of supporting petition data.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 409, 701(a), 72 Stat. 1785-1788, as amended, 52 Stat. 1055; 21 U.S.C. 348, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend § 121.1088(c) by deleting from the list of substances the items "monobutyl ether of polyoxyethylene glycoyl" and "monobutyl ether of polyoxypropylene glycol."

Interested persons may, on or before April 26, 1973, 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: February 15, 1974.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.74-4303 Filed 2-22-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19937]

FM BROADCAST STATIONS IN RED OAK, IOWA

Proposed Table of Assignments

In the matter of amendment of § 73.202 *Table of assignment* FM Broadcast Stations (Red Oak, Iowa), Docket No. 19937, RM-2119.

1. The Commission has before it for consideration the above-captioned petition for rule making filed January 5, 1973, by Red Oak Broadcasting, Inc., licensee of daytime-only AM Station KOAK, Red Oak, Iowa which requests the assignment of Channel 249A to Red Oak and its deletion from Nebraska City, Nebraska. Channel 249A was assigned to Nebraska City in 1963 when the present Table of Assignments was adopted. There is no application filed therefor. Petitioner asserts that Channel 249A could be assigned to Red Oak in conformity with the Commission's minimum mileage separation rules without affecting any presently assigned channel other than the deletion of Channel 249A from Nebraska City, Nebraska. A study shows that there is no channel available which could be assigned to Red Oak without re-

quiring other changes in the Table, or which could be substituted at Nebraska City, Nebraska. Nebraska City has a daytime-only AM Station, KNCY.

2. Red Oak, Iowa, a community of 6,210 [1] persons and the seat of Montgomery County (population 12,781) is located 50 miles from Omaha, Nebraska. It presently has a daytime-only station (licensed to petitioner). Petitioner notes that Red Oak's retail sales and use tax ending fiscal year June 30, 1970, totalled $142,176,514, and the two banking institutions in Red Oak have total assets of $39,545,553. It states that the total labor force is 3,608 with 97 percent employment; six of the largest industries produce batteries, concrete products, calendars, pipe, agricultural-chemical packaging and liquid fertilizer. Petitioner points out that Red Oak is governed by a mayor-council form; has several elementary schools; a junior and senior high school; a public library and a hospital. Petitioner states that there is an evident need for a first FM channel in Red Oak and if the channel is assigned to that community it will make application therefor, and, if granted, will promptly place the channel in operation. For these reasons, we believe consideration of the proposal for the assignment of a first Class A FM channel to Red Oak, Iowa, is warranted.

3. In view of the foregoing, and pursuant to authority found in sections 4(i), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend the FM Table of Assignments (§ 73.202(b)) to read as follows:

City	Channel No. Present	Proposed
Nebraska City, Nebr.	249A	
Red Oak, Iowa		249A

4. *Showings required.* Comments are invited on the proposal discussed above. Proponent will be expected to answer whatever questions are raised in the Notice and other questions that may be presented in initial comments. The proponent of the proposed assignment is expected to file comments even if he only resubmits or incorporates by reference his former pleading. He should also restate his present intention to apply for the channel if it is assigned and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

5. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with the proposal in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with this decision in this docket.

6. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before March 1, 1974, and reply comments on or before March 11, 1974. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

7. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other document shall be furnished the Commission.

8. All filings made in this proceeding will be available for examination by interested parties during business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C. (1919 M St. NW.).

Adopted: February 13, 1974.

Released: February 20, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-4350 Filed 2-22-74;8:45 am]

[1] Population Figures cited are from the 1970 U.S. Census.

FEDERAL POWER COMMISSION

[18 CFR Ch. I]

[Docket No. RM74-12]

INVESTIGATION OF RATES CHARGED FOR NONJURISDICTIONAL SALES OF NATURAL GAS

Notice of Extension of Time

FEBRUARY 15, 1974.

Investigation of rates charged for nonjurisdictional sales of natural gas by Natural Gas Companies subject to the jurisdiction of the Federal Power Commission.

Phillips Petroleum Company filed a request for an extension of time in which to file comments to the notice issued January 30, 1974, concerning the investigation of rates charged for nonjurisdictional sales of natural gas by natural gas companies subject to the jurisdiction of the Federal Power Commission.

Upon consideration, notice is hereby given that the time is extended to and including February 26, 1974, within which any views, comments, or suggestions in writing concerning all or any part may be filed.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-4343 Filed 2-22-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1125]

[Ex Parte No. 293 (Sub-No. 2)]

STANDARDS FOR DETERMINING RAIL SERVICE CONTINUATION SUBSIDIES

Notice of Proposed Rulemaking and Order

FEBRUARY 19, 1974.

This notice and order is issued pursuant to, and under the authority of, section 205(d)(3) of the Regional Rail Reorganization Act of 1973 (the "Act"), Pub. L. 93-236, 87 Stat. 985, which provides that the Rail Services Planning Office of the Interstate Commerce Commission (the "Office") shall—

> * * * within 180 days after the date of enactment of this Act, determine and publish standards for determining the "revenue attributable to the rail properties", the "avoidable costs of providing service", and "a reasonable return on the value", as those phrases are used in section 304 of this Act, after a proceeding in accordance with the provisions of section 553 of title 5, United States Code * * *

The Act has as its principal focus the statutory reorganization of railroads in bankruptcy in the northeastern quarter of the United States, and the restructuring of rail services in the 17-State region defined in section 102(13), plus additional territories added by the Commission by order entered January 14, 1974, in Ex Parte No. 293, namely, points in the St. Louis, Mo., and Louisville, Ky., Standard Metropolitan Statistical Areas and Manitowoc and Kewaunee, Wis. (the "Region"). Among other things, it provides for the development and ultimate approval by the Congress of a final system plan (the "Plan") for the redesign of rail services in the Region. The Plan is expected to identify a number of lines which are not considered essential to the overall rail transportation system and which cannot be operated profitably. These lines will not be included in the Plan, and section 304 of the Act, to which reference is made in section 205(d)(3) quoted above, permits the termination of service over, and the abandonment of, those lines under certain conditions.

Any time after the thirtieth day following the effective date of the Plan, the owner of a line excluded from the Plan may give notice to the governors of affected States and certain other persons of its intention to terminate service over the line. The notice may provide for termination of service at any time following 60 days after the issuance of the notice. Thus rail service over a line not included in the Plan could be terminated as early as 90 days following the effective date of the Plan. Rail properties may be abandoned, with certain exceptions, 120 days following the effective date of a notice of termination of train service over those properties.

Section 304(c)(2) of the Act provides that discontinuance of train service over, and abandonment of, lines not included

in the Plan cannot be carried out if, as pertinent to this proceeding, a shipper, a State, the United States, a local or regional transportation authority, or any responsible person offers—

> * * * a rail service continuation subsidy which covers the difference between the revenue attributable to such rail properties and the avoidable costs of providing service on such properties plus a reasonable return on the value of such rail properties * * *

Section 205(d)(3), quoted above, requires the Office to promulgate standards for applying this formula within 180 days after the date of enactment of the Act—that is, on or before July 1, 1974.

Title IV of the Act recognizes the importance to the United States of continuing in operation rail lines not included in the Plan but considered essential by one of the States in the Region. It establishes a new program under which the Federal government is to reimburse the States for 70 percent of the amount of rail service continuation subsidies paid by them in order to maintain operations over rail lines that would otherwise have been abandoned under the Act.

In considering what standards should be established for computing the amount of a rail service continuation subsidy, it is essential to bear in mind not only the clearly expressed intent of the Congress to provide for the continued operation of services that might otherwise be terminated under the Act, but also the time limitations which Congress has imposed. The Office is allocated a period of only 180 days to develop and issue the standards, and the standards must be adopted pursuant to a proceeding subject to the Administrative Procedure Act requirement that all interested persons be given an opportunity to be heard. This means that a very tight procedural schedule must be adopted and adhered to.

More important is the fact that service over a line not included in the Plan could be terminated only 90 days after the Plan becomes effective, and only 60 days after notice of the owner's intention to terminate is given, unless a firm offer to provide subsidy is made by some interested person or government agency. To be able to make the decision whether to offer a subsidy, the cost of that subsidy must be known with at least a fair degree of precision. This means that if the intent of the Congress to establish an effective subsidy program is to be honored, and if the standards adopted in this proceeding are to serve any useful purpose, those standards must be such as to permit rapid calculation of the amount of the subsidy. In short, they must provide for a formula which can be applied to a given situation and produce an answer to the subsidy cost question in a very short time—necessarily less than the 60 days allowed by the Act between issuance of a notice of intent to terminate service and the effective date of the termination.

The proposed standards for determining the revenue and avoidable costs attributable to a line not included in the Plan and as to which a notice of intent to terminate service has been given (herein for convenience called a "branch") are made up, in effect, of a series of apportionment formulas under which various revenue and expense accounts, as reported by the railroads to the Commission, are prorated between the branch and remainder of the owning railroad's system. The formulas require, for the most part, the application of data submitted routinely by the railroads in their annual reports and annual freight commodity statistics. Certain other information will also be required in order to make the required apportionments, and the proposed rules provide for its submission. Admittedly, the result of applying the apportionment formulas proposed is likely to be a less precise measure of attributable revenues and avoidable costs than would be achieved if an exhaustive study of branch costs and revenues were conducted in order to arrive at a measure of "avoidable loss" as that term has been used in the past by the Commission in its determination of routine rail abandonment applications. However, the statutory plan for northeastern and midwestern rail service restructuring, of which the required standards are a part, does not permit the luxury of detailed and time consuming studies of cost and revenue experience on individual lines.

In most if not all instances, only the railroad proposing to terminate service on a branch will have access to the information needed to assign historical revenues and costs to that line. Thus it is proposed that a rule be adopted requiring the railroad, when it submits its notice of intent to terminate service, to furnish the data necessary for making that determination. A notice of intent to terminate service under the rule proposed here would not be deemed complete until all such information had been supplied, and the effective date of the proposed termination of service could not be set by the railroad at less than 60 days following the date upon which its completed notice, including all necessary data, had been filed with this Office and the governor of the State in which the Branch Line is located. Those data would also have to be made available upon request, to all persons entitled to receive notice of the railroad's intention to terminate service. Comments are invited as to alternative procedures which would insure that the States obtain access to the necessary data in time to answer the subsidy cost question within the time constraints of the statute.

The proposed method of calculating "avoidable costs of providing service" and "revenue attributable to rail properties" uses data from the Commission's Annual Report Form A (recently redesignated as form R–1) and Annual Form QCS, both containing generally available data compiled by the railroads, and certain other statistics providing additional data needed for apportioning revenue and expenses to branch line operations set out in § 1125.7(d) and Table I of the proposed standards. These data are available only from the railroads, but they should be able to furnish them without undue difficulty.

Development of a standard to determine what is a reasonable return on the value of rail properties to be kept in operation under subsidy requires a two-step process. First a means for determining the value of the properties must be established; second, what constitutes a fair rate of return must be determined.

The standard proposed for determining the value of the properties involved is net liquidation value—that is, current market value less the costs related to dismantling and disposal of the property. Disputes are likely to arise between the owning railroad and the subsidizing body over the value of the properties involved, and also possibly over the identification of the actual properties needed to provide the level of service to be performed. The proposed standard, therefore, includes a provision for compulsory arbitration.

The proposed standard for determining what is a reasonable return on the value of the property to be subsidized establishes a variable rate of return based on recent experience in the sale of what are considered relatively safe, long-term railroad securities—namely, equipment trust certificates. They are highly rated, and sold by competitive bidding to knowledgeable investors. In a recent sale, equipment trust certificates bearing interest at eight percent per year were sold at 100.5573, or an actual interest cost of 7.89 percent. The rate of return on the value of a branch to be subsidized would, under the proposed standard, be the average interest cost for equipment trust certificates sold by Class I railroads in the United States during the 3 calendar months preceding the month in which the notice of termination of service over the branch becomes effective. It is contemplated that the Office would make that computation and publish the current rate of return monthly in the FEDERAL REGISTER.

All persons interested in filing statements of their views on the proposed standards which are a part of this notice, or in proposing for consideration alternative standards, are invited to do so. Statements should be submitted in writing to the Office on or before May 3, 1974. An original and six copies of any statement should be supplied. Because of the severe time limitations imposed by the Regional Rail Reorganization Act of 1973, reply statements will not be entertained, nor will oral hearings be held.

In light of the foregoing considerations:

It is ordered, That a proceeding be, and it is hereby, instituted under the provisions of section 205(d)(3) of the Regional Rail Reorganization Act of 1973, Pub. L. 93–236, 87 Stat. 985, looking toward the adoption of standards for determining "the revenue attributable to the rail properties", the "avoidable costs of providing service", and "a reasonable return on the value" as those

terms are used in section 304 of such Act:

And it is further ordered, That no oral hearing be scheduled for receiving testimony in this proceeding, but that all interested persons be invited to participate in this proceeding by submitting written representations containing statements of fact or views. Comments are particularly invited on the proposed standards which accompany this notice and order. To be considered, the original and six copies of each representation must be filed before May 3, 1974, with:

Rail Services Planning Office
Interstate Commerce Commission
Washington, D.C. 20423

By the Commission, Rail Services Planning Office.[1]

[SEAL] ROBERT L. OSWALD,
Secretary.

It is proposed to amend 49 CFR Chapter X by adding a new Part 1125 to read as follows:

PART 1125—STANDARDS FOR DETERMINING RAIL SERVICE CONTINUATION SUBSIDIES

Sec.
1125.1 General.
1125.2 Definitions.
1125.3 Revenue attributable to particular rail lines.
1125.4 Avoidable costs of providing service on particular lines.
1125.5 Valuation of rail properties.
1125.6 Reasonable return.
1125.7 Submission of data by railroads seeking to terminate service.
1125.8 Amendment.

TABLE I

AUTHORITY: Sec. 205(d)(3), Regional Rail Reorganization Act of 1973, Pub. L. 93-236, 87 Stat. 985.

§ 1125.1 General.

These standards are issued by the Rail Services Planning Office of the Interstate Commerce Commission pursuant to section 205(d)(3) of the Regional Rail Reorganization Act of 1973, and provide rules for the interpretation and application of the provisions of section 304(c)(2) of that Act regarding the payment of rail service continuation subsidies.

§ 1125.2 Definitions.

(a) Act means the Regional Rail Reorganization Act of 1973, P.L. 93-236, 87 Stat. 985.

(b) Branch means a line of railroad not included in the final system plan as defined in section 102(6) of the Act, and which is the subject of a notice to terminate service under section 304(a) of the Act.

(c) Commission means the Interstate Commerce Commission.

(d) Office means the Commission's Rail Services Planning Office, established by section 205 of the Act.

(e) Railroad, unless the context requires otherwise, means a railroad company, or the trustee or trustees of a railroad company, which owns or controls a system of rail lines of which a branch is a part, or was a part prior to the effective date of the final system plan as defined in section 102(6) of the Act.

(f) Subsidizing body includes a shipper, the United States, a State, a local or regional transportation authority, or any responsible person offering, or expressing its intention to offer, a rail service continuation subsidy under section 304(c)(2)(A) of the Act.

§ 1125.3 Revenue attributable to particular rail lines.

The revenue attributable to a branch shall be the sum of the revenues apportioned to the branch in accordance with the principles set forth in this section.

(a) Freight revenues (Account 101) shall be apportioned to the branch in accordance with the following procedure:

(1) Utilizing information reported by the railroad in its most recent Annual Report of Freight Commodity Statistics (Interstate Commerce Commission Annual Form QCS) and the branch commodity statistics required to be supplied by such railroad under § 1125.7(d)(2)(A), obtain the gross freight revenue and the tons originated for each of the commodities originated on the branch, and compute the gross freight revenue per ton originated for such commodities.

(2) Multiply the gross freight revenue per ton originated separately by commodities by the tons originated on the branch for each commodity and by tons terminated on the branch which originated off the branch and aggregate the resulting products per ton originated and terminated to obtain branch line gross freight revenue.

(3) Adjust the branch line gross freight revenue by a percentage that is the relationship of freight revenue (Account 101) in the railroad's most recent Annual Report to the Commission (Rail Form A or R-1) to gross freight revenue from its most recent Annual Report of Freight Commodity Statistics (Annual Form QCS) to obtain freight revenues attributable to the branch.

(b) Passenger revenues (Account 102) shall be apportioned to the branch on the basis of passenger miles on the branch to system passenger miles.

(c) Account:

103—Baggage.
104—Sleeping car.
105—Parlor and chair car.
106—Mail.
107—Express.
108—Other passenger train.
131—Dining and buffet.

Apportion to branch on the basis of passenger car-miles on the branch to system passenger-car miles.

(d) Account:

110—Switching.
135—Storage freight.
137—Demurrage.
138—Communication.
142—Rents of buildings and other property.
143—Miscellaneous.

Where applicable to branch operations, assign directly; otherwise exclude.

(e) Account:

151—Joint facility—Cr.
152—Joint facility—Dr.

Where applicable to branch operations, apportion to branch on proportion of track miles operated to system track miles operated.

§ 1125.4 Avoidable costs of providing service on particular lines.

The avoidable costs of providing service over a branch shall be the sum of the expenses apportioned to the branch in accordance with the principles set forth in this section. Where applicable, expenses for providing both freight and passenger services shall be apportioned to the branch.

(a) Expenses for maintenance of way and structures. (1) Account:

201—Superintendence.
274—Injuries to persons.
275—Insurance.
276—Stationery and printing.
277—Employees' health and welfare benefits.
282—Other expenses.

Apportion to branch on the proportion of branch expenses in Accounts 202-265, inclusive, to system expenses in the same accounts.

(2) Account:

202—Roadway maintenance.
212—Ties.
216—Other track material.
218—Ballast.
220—Track laying and surfacing.

Apportion to the branch on the basis of equated track miles of branch line tracks. Basis of equating tracks, shall be:

	Percent
1st Main track	100
2nd Main track	83
3rd Main track	75
Branch line main track	49
Passing tracks	43
Yard tracks and sidings	32

(3) Account:

206—Tunnels and subways.
208—Bridges, trestles, and culverts.
210—Elevated structures.
221—Fences, snowsheds, and signs.

Where applicable, apportion to branch on proportion of branch expenses in Accounts 202-265, inclusive, to system expenses in the same accounts.

(4) Account:

227—Station and office buildings.

Apportion to branch on basis of tons of revenue freight or passengers carried on branch to tons of system revenue freight or passengers carried.

(5) Account:

229—Roadway buildings.
231—Water stations.
233—Fuel stations.
265—Miscellaneous structures.
266—Road property-Depreciation.
267—Retirements-Road.
269—Roadway machines.
270—Dismantling retired road property.
271—Small tools and supplies.
272—Removing snow, ice, and sand.
273—Public improvements-Maintenance.
281—Right-of-way expenses.
282—Other expenses.

Apportion to branch on basis of miles of road operated on branch to miles of road operated on the system.

[1] Present: George M. Chandler, director, to whom the matters under consideration in this notice and order have been assigned.

(6) Account:

237—Grain elevators.
239—Storage warehouses.
241—Wharves and docks.
243—Coal and ore, wharves.

Where applicable, apportion to branch on basis of miles of road operated on branch to miles of road operated on the system.

(7) Account:

235—Shops and engine houses.
247—Communications systems.
249—Signals and interlockers.

Apportion to branch on proportion of branch train miles to total system train-miles.

(8) Account:

244—TOFC/COFC terminals.

Apportion to branch on basis of tons of revenue freight carried in TOFC/COFC vehicles on the branch to total system tons of revenue freight carried in TOFC/COFC vehicles.

(9) Account:

253—Power plants.
257—Power-transmission systems.

Apportion to branch on proportion of locomotive unit-miles of electric locomotives on branch to system electric locomotive unit-miles.

(10) Account:

278—Maintaining joint tracks, yards, and other facilities—Dr.
279—Maintaining joint tracks, yards, and other facilities—Cr.

Apportion to branch where applicable on the basis of miles operated on the branch to total miles operated on the system.

(b) Expenses for maintenance of equipment. (1) Account:

301—Superintendence.
332—Injuries to persons.
333—Insurance.
334—Stationery and printing.
335—Employees' health and welfare benefits.
339—Other expenses.

Apportion to branch on proportion of branch expenses in Accounts 311, 314, 318 and 323 to total system expenses in the same Accounts.

(2) Account:

302—Shop machinery.
304—Powerplant machinery.
305—Shop and power-plant machinery-depreciation.
306—Dismantling retired shop and power-plant machinery.
329—Dismantling retired equipment.
331—Equipment depreciation.
336—Joint maintenance of equipment—Dr.
337—Joint maintenance of equipment—Cr.

Apportion to the branch on proportion of branch expenses in Accounts 311, 314, 318, and 323 to total system expenses in the same Accounts. Charges for work done on cars rented on a mileage basis shall be excluded from Account 314.

(3) Account:

311—Locomotive—Repairs, Diesel locomotives—Yard.
311—Locomotive—Repairs, Other than diesel—Yard.

Apportion to the branch on proportion of the yard switching locomotive miles operated on the branch to system yard switching locomotive miles.

(4) Account:

311—Locomotive—Repairs, Diesel locomotives—Other.
311—Locomotive—Repairs, Other than diesel—Other.

Apportion to the branch on the proportion of the branch gross ton-miles, including locomotives in road service, to system gross ton-miles, including locomotives in road service.

(5) Account:

314—Freight train cars—Repairs.

Apportion to branch on proportion of branch loaded and empty freight car-miles of other than mileage rented cars to system loaded and empty freight car-miles of other than mileage rented cars.

(6) Account:

318—Highway revenue equipment—Repairs.

Apportion to branch on proportion of branch vehicle-miles (loaded and empty) in revenue service to system vehicle-miles (loaded and empty) in revenue service.

(7) Account:

323—Floating equipment—Repairs.

Where applicable, apportion to branch on proportion of branch cars handled (loaded and empty) to system cars handled (loaded and empty).

(8) Account:

326—Work equipment—Repairs.
328—Miscellaneous—Repairs.

Apportion to branch on proportion of branch nonrevenue ton-miles to system nonrevenue ton-miles.

(c) Traffic expenses (Accounts 351–360) shall be apportioned to branch on proportion of tons of revenue freight carried on branch to system tons of revenue freight carried.

(d) Transportation (rail line) expenses. (1) Account:

371—Superintendence.
409—Employees' health and welfare benefits.
410—Stationery and Printing.
411—Other Expenses.
414—Insurance.
420—Injuries to persons.

Apportion to branch on proportion of branch expenses in Accounts 372, 373 to 389, 392 to 408, and 415 to total system expenses in same accounts.

(2) Account:

372—Dispatching trains.
401—Trainmen.
404—Signal and interlocker operation.
405—Crossing protection.
406—Drawbridge operation.
407—Communications system operation.
415—Clearing wrecks.
416—Damage to property.
417—Damage to livestock on right-of-way.

Apportion to branch on proportion of branch train-miles to total system train-miles.

(3) Account:

373—Station employees.
376—Station supplies and expenses.

Apportion to branch on proportion of tons of revenue freight carried on branch to system tons of revenue freight carried.

(4) Account:

374—Weighing, inspection and demurrage bureaus.
375—Coal and ore wharves.
408—Operating floating equipment.

These expenses shall be excluded unless essential to branch operation. Where applicable, apportion to branch on proportion of branch tons of revenue freight to system tons of revenue freight.

(5) Account:

377—Yardmasters and yard clerks.
378—Yard conductors and brakemen.
379—Yard switch and signal tenders.
380—Yard enginemen.
382—Yard switching fuel.
383—Yard switching power produced.
384—Yard switching power purchased.
388—Servicing yard locomotives.
389—Yard supplies and expenses.
390 & 391—Operating joint yards and terminal (net).

Apportion to branch on proportion of branch yard switching locomotive unit-miles to system yard switching locomotive unit-miles.

(6) Account:

392—Train enginemen.
394—Train fuel.
395—Train power produced.
396—Train power purchased.
400—Servicing train locomotives.
412 & 413—Operating joint tracks and facilities (net).

Apportion these expenses to the branch on proportion of branch locomotive unit-miles (including train switching) to system locomotive unit-miles (including train switching).

(7) Account:

402—Train supplies and expenses.

Apportion to branch on proportion of branch freight car-miles (loaded, empty and caboose) to system freight car-miles (loaded, empty and caboose).

(e) Miscellaneous operations expenses (Accounts 441–448) shall be assigned to branch only if directly applicable, and otherwise shall be excluded.

(f) General expenses (Accounts 451–462) shall be apportioned to branch on proportion of branch expenses in each group of Accounts listed in paragraphs (a) through (d) of this section to total system expenses in the same groups of Accounts.

(g) Expenses reported under Account 532, Railway tax accruals, shall be apportioned as follows:

(1) Payroll taxes shall be apportioned to the branch on the basis of total branch operating expenses to total system operating expenses.

(2) Property taxes shall be apportioned to branch on the basis of branch miles of road to total miles of road within the state.

(3) Other taxes shall be apportioned on the basis of miles of road operated on branch to miles of road operated on the system.

(h) Rent income and payable

(1) Account:

503—Hire freight cars and highway revenue equipment—Cr.
536—Hire of freight cars and highway revenue equipment—Dr.

Apportion the net of the above accounts to the branch on the basis of car miles on the branch to total system car miles.

(2) Account:

504—Rent from locomotives.
506—Rent from floating equipment.
539—Rent for floating equipment.

Assign to branch only where applicable.

(3) Account:

507—Rent from work equipment.
540—Rent for work equipment.

Follow instructions for Account 326—Work equipment repairs.

(4) Account:

508—Joint facility rent income.

Assign directly to branch where applicable, otherwise apportion expenses to branch on the proportion of the sum of Accounts 279, 337, 413, and 462 charged to branch to total of such accounts.

(5) Account:

537—Rent for locomotives.

Apportion to the branch line on the basis of locomotive unit-miles used on the branch to total system locomotive unit-miles.

(6) Account:

541—Joint facility rents.

Assign directly to branch where applicable, otherwise apportion expenses to branch on the proportion of the sum of Accounts 278, 336, 390, 412, and 461, charged to branch to total of such accounts.

§ 1125.5 Valuation of rail properties.

The value of rail properties on a branch shall be determined in accordance with the following principles:

(a) For the purposes of these standards, properties on a branch shall include only those properties and facilities—

(1) Which are used and useful to provide those rail services demanded by the subsidizing body; or

(2) In the absence of a specific demand for services by the subsidizing body, which are used and useful to provide the rail services actually performed on the branch on the effective date of the final system plan.

(b) The value of properties on a branch shall be the net liquidation value of those properties—that is, their current market value less all costs related to dismantling and disposition of improvements necessary to render the remaining property available for its highest and best use.

(c) If the railroad and the subsidizing body fail to reach agreement over what properties are used and useful or the net liquidation value of those properties within what the subsidizing body considers a reasonable time after negotiations for the payment of a rail service continuation subsidy are begun, the subsidizing body may notify the railroad of its intention to seek arbitration, and—

(1) The railroad and the subsidizing body shall each appoint a representative, and the appointed representatives shall select an arbitrator or arbitrators mutually acceptable to them, and the decision of the arbitrator or arbitrators shall be final; or

(2) In the event that the railroad fails to appoint a representative as required in paragraph (c)(1) of this section within 5 days following receipt of a notice from the subsidizing body naming its representative, or in the event that the appointed representatives fail to agree upon a mutually acceptable arbitrator or arbitrators within 5 days following appointment of the railroad's representative, the subsidizing body may submit the matter for arbitration to the American Arbitration Association whose determination of the dispute shall be final.

§ 1125.6 Reasonable return.

(a) The reasonable return on the value of rail properties on a branch as established in the immediately preceding section shall be the simple average interest cost for Equipment Trust Certificates sold by Class I railroads in the United States (as defined by the Commission) during the three calendar months immediately preceding the month in which a notice of intent to terminate service over the branch became, or would have become, effective.

(b) Average interest costs for Equipment Trust Certificates sold during the three immediately preceding months shall be computed monthly by the Office and published in the FEDERAL REGISTER.

§ 1125.7 Submission of data by railroads seeking to terminate service.

(a) Any railroad filing notice of its intention to terminate service over a branch pursuant to section 304(a) of the Act shall—

(1) Serve upon the Director, Rail Services Planning Office, Interstate Commerce Commission, Washington, D.C. 20423, a copy of its notice accompanied by a copy of its most recent Annual Report (Interstate Commerce Commission Rail Form A or R–1) on file with the Commission, a copy of its most recent Annual Report of Freight Commodity Statistics (Interstate Commerce Commission Annual Form QCS) on file with the Commission, and the information described in subsection (d) of this subsection (d) of this section:

(2) Serve upon the governor or governors of the State or States within which the branch is located copies of the materials and information required to accompany the copy of the notice to be filed with the Director of the Office as provided in the immediately preceding paragraph; and

(3) Upon request, provide to any person entitled to notice under section 304(a)(2)(C) of the Act copies of, or reasonable access to, the materials and information required to accompany the copy of the notice to be served upon the Director of the Office as provided in paragraph (a)(1) of this section.

(b) No notice of intention to terminate rail service on a branch shall be deemed completed until all the materials and information required to accompany the copy of the notice to be filed with the Director of the Office as provided in paragraph (a)(1) of this section have in fact been served upon him and upon the governor or governors of the State or States within which the branch is located.

(c) No rail service over a branch shall be terminated under the provisions of section 304(a) of the Act less than 60 days following the date upon which a completed notice of intention to terminate service, as described in the immediately preceding subsection, has been served upon the governor or governors of the State or States within which the branch is located.

(d) Pursuant to the provisions of paragraph (a) of this section, and in addition to the information specified therein, any railroad filing notice of its intention to terminate service over a branch pursuant to section 304(a) of the Act shall provide the following information, developed for the same year as the railroad's most recent Annual Report on file with the Commission:

(1) The railroad shall provide the items of information listed in Table 1 accompanying these standards. To the extent applicable, the railroad shall provide for each item listed in Table I, information with respect to—

(i) Operations on the branch in freight service;

(ii) Operations on the entire system in freight service;

(iii) Operations on the branch in passenger service; and

(iv) If passenger service is provided on the branch, operations on the entire system in passenger service.

(2) The railroad shall either—

(i) Provide a listing of all commodities originating and terminating on the branch, identifying such commodities by the commodity codes used in the Quarterly Report on Freight Commodity Statistics, and providing for each commodity the tonnage originating and terminating on the branch; or

(ii) Shall provide its own computation of the freight revenues to be apportioned to the branch in accordance with the provisions of § 1125.3(a) of this Part. If the railroad elects to supply its own computation of freight revenues attributable to the branch, it shall make available for examination the working papers from which such computation was made to a subsidizing body upon request, provided that, if the railroad shall so request, the subsidizing body agrees to maintain the confidentiality of any information that may be disclosed in the course of such examination.

§ 1125.8 Amendment.

The right to amend this part, following notice and the opportunity to be heard, is hereby expressly reserved.

TABLE I

The following information is to be provided pursuant to 49 CFR § 1125.7(d) (1):

AVERAGE MILES OF ROAD OPERATED

1 First main.
2 Second main.
3 3rd and 4th main.
4 Branch.
5 Passing tracks.
6 Yard and sidings.

TRAIN-MILES

7 Diesel locomotives.
8 Other locomotives.
9 Total locomotives.
10 Motorcars.
11 Total train-miles.

LOCOMOTIVE UNIT-MILES

12 Road service (Diesel and Other).
13 Road service (Electric only).
14 Train switching.
15 Yard switching.
16 Total locomotive unit-miles (lines 12, 14, and 15).

CAR-MILES

17 Total motorcar car-miles.
18 Loaded time-mileage freight cars.
19 Loaded other freight cars.
20 Empty time-mileage freight cars.
21 Empty other freight cars.
22 Caboose.
23 Total freight car-miles (lines 18 through 22, inclusive).

GROSS TON-MILES AND TRAIN-HOURS IN ROAD SERVICE

24 Gross ton-miles of locomotives and tenders (thousands).
25 Gross ton-miles of freight-train cars contents, and cabooses (thousands).
26 Train-hours—Total.

REVENUE AND NONREVENUE FREIGHT TRAFFIC

27 Tons of revenue freight.
28 Tons of nonrevenue freight.
29 Tons of revenue freight in TOFC/COFC service.
30 Tons-miles—Revenue freight in road service (thousands).
31 Ton-miles—Nonrevenue freight in road service (thousands).
32 Count of floated cars.

VEHICLE-MILES (LOADED AND EMPTY)

Line-haul (station to station)

33 Truck-miles.
34 Tractor miles.

TERMINAL SERVICE (WHEN PERFORMED BY VEHICLES OTHER THAN THOSE USED FOR LINE-HAUL)

35 Pickup and delivery.

PASSENGER SERVICE

36 Passengers carried.
37 Passenger miles.
38 Passenger-car miles.

INSTRUCTIONS: In preparing the above information, the railroad shall separate average miles of road operated by the various types of track listed at lines 1 through 6; assign directly to the branch the passing track, yard, and siding track mileage where they are solely related to the branch; and assign train-miles, locomotive unit-miles, car-miles, gross ton-miles and highway vehicle miles on the basis that they are incurred on the branch. Revenue and nonrevenue traffic data shall be accumulated from source documents, such as waybills, to obtain appropriate statistics for the branch.

[FR Doc.74-4248 Filed 2-22-74;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

Office of the Secretary

REGENERATIVE BLOWER/PUMPS FROM WEST GERMANY; ANTIDUMPING

Determination of Sales at Less Than Fair Value

Information was received on April 16, 1973, that regenerative blower/pumps from West Germany were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as the Act).

A "Withholding of Appraisement Notice" was published in the FEDERAL REGISTER of November 23, 1973 (38 FR 32270).

I hereby determine that for the reasons stated below, regenerative blower/pumps from West Germany are being, or are likely to be, sold at less than fair value within the meaning of section 201 (a) of the Act (19 U.S.C. 160(a)).

Statement Of Reasons On Which This Determination Is Based:

The information before the U.S. Customs Service reveals that the proper basis of comparison for fair value purposes is between exporter's sales price and the adjusted home market price of such or similar merchandise.

Exporter's sales price was calculated on the basis of the resale price to unrelated purchasers in the United States, with deductions for ocean or air freight, as applicable, insurance, U.S. duty, Customs brokerage and clearance charges, inland freight, direct and indirect selling expenses in the United States, and a rebate of warranty costs.

Home market price was calculated on the basis of an ex-factory price to unrelated purchasers by wholly owned subsidiaries, with deductions for a discount, warranty and service costs, technical assistance, advertising and selling expenses.

Using the above criteria, exporter's sales price was found to be lower than the adjusted home market price of such or similar merchandise.

The United States Tariff Commission is being advised of this determination.

(Section 201(c) of the Act (19 U.S.C. 160(c))).

[SEAL] JAMES B. CLAWSON,
Acting Assistant Secretary of the Treasury.

[FR Doc.74-4519 Filed 2-22-74;8:53 am]

DEPARTMENT OF DEFENSE

Corps of Engineers

CHIEF OF ENGINEERS ENVIRONMENTAL ADVISORY BOARD

Notice of Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that the quarterly meeting of the Environmental Advisory Board of the Chief of Engineers will be held on 26-27 February 1974, at the Conference Room of the Board of Engineers for Rivers and Harbors, Kingman Building, Fort Belvoir, Virginia, beginning at 0930 each morning.

The meeting will be open to the public at the following times:

FEBRUARY 26, 1974

1400-1615, Strategies of American Water Management and Policy and the Relationship to the U.S. Army Corps of Engineers.

FEBRUARY 27, 1974

(1) 0930-1100, Discussion of presentation delivered afternoon. February 26, 1974.

(2) 1500-1545, Examples and Problems on Nontraditional Approaches to Flood Plain Management.

(3) 1545-1615, On-going Evaluations Downstream of Dams.

The balance of the meeting will be subjects that fall within policies analogous to those recognized in section 552 (b) of title 5 U.S.C. and as such are exempt from public disclosure.

Persons desiring further information should contact LTC John F. Wall, Assistant Director of Civil Works, Environmental Programs, Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, telephone (202 693-7093.

RUSSELL J. LAMP,
Colonel,
Corps of Engineers Executive.

[FR Doc.4416 Filed 2-22-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

INDIANA STATE DEPARTMENT OF MENTAL HEALTH, ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before March 18, 1974.

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

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

Docket Number: 74-00249-01-11000. Applicant: Indiana State Department of Mental Health, 1315 West 10th Street, Indianapolis, Indiana 46202. Article: Gas Chromatograph-Mass Spectrometer, LKB 9000. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in investigations relating to:

(1) Causes of mental and physical retardation which are genetically determined in children,

(2) Causes of unexplained ketoacidoses in the newborn,

(3) Investigation of jaundice in the newborn and metabolism of bilirubin, and

(4) Study of the neurochemistry and therapy of seizure disorders.

The article will also be used for education at the graduate level. Students preparing themselves for careers in analytical biochemistry with emphasis on intermediary metabolism or on drug metabolism will use the article in carrying out their major research projects. In addition, the article will be used by research fellows, graduate students, and a number of medical students for various phases of work in mass-spectrometry. Application received by Commissioner of Customs: December 19, 1973.

Docket Number: 74-00250-33-46040. Applicant: Roswell Park Memorial Institute, Health Research Inc., 666 Elm Street, Buffalo, New York 14203. Article: Electron Microscope, Model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used in a wide range of research projects which include the following:

(1) Examination of human leukemia cells from A.L.L. and lymphosarcoma converted to leukemia to attempt to detect morphological differences in order to prognosticate,

(2) Examination of Ewing's Sarcoma and Reticulum Cell Sarcoma of the bone in an attempt to differentiate these two in order to "tailor-make" treatments,

(3) Examination of human lymphomas to detect morphological differences and correlate with prognosis,

(4) Examination of breast cancer,

(5) Expansion of pathological sources to use electron microscopy diagnosis on difficult diagnostic cases by light microscopy,

(6) Development of a hydration chamber for both transmission and scanning electron microscopy, and

(7) Localization of carcinoembryonic antigen on tumor cells, either from surgical specimens or from tissue culture using immuno electron microscopy techniques.

In addition, the article is to be used in the course Techniques of Electron Microscopy in which students will learn the principals of fixation, dehydration, and embedding of tissues for electron microscopy and practical training in the use of the electron miscroscope will be given. Application received by Commissioner of Customs: December 18, 1973.

Docket Number: 74-00252-75-40500. Applicant: The University of Chicago, The James Franck Institute, 5640 S. Ellis Avenue, Chicago, Illinois 60637. Article: Narrow Gap Interferometer. Manufacturer: Electro Photonics Limited, United Kingdom. Intended use of article: The article is intended to be used to frequency tune picosecond duration light pulses from an existing mode locked oscillator. These light pulses will be used to study reaction kinetics and energy transfer in photoexcited molecules. In particular, the cis-trans isomerization in linear polyene molecules will be studied by observing Raman scattering of light off the photoexcited molecule. Application received by Commissioner of Customs: December 14, 1973.

Docket Number: 74-00254-33-46040. Applicant: U.S. Public Health Service Hospital, Bay Street and Vanderbilt Avenue, Staten Island, New York 10304. Article: Electron Microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in studies of biological materials consisting almost exclusively of cardiac tissue obtained from experimental animals (canine, rabbit). Experiments to be conducted include: an examination of the ultrastructural changes in canine cardiac conduction system under different physiological and pharmacological conditions. Application received by Commissioner of Customs: December 17, 1973.

Docket Number: 74-00255-33-46040. Applicant: University of Massachusetts Medical School, 55 North Lake Avenue, Worcester, Massachusetts 01604. Article: Electron Microscope Model EM 301. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended Use of Article: The article is intended to be used for further research on the process of wound healing specifically, the identification of the intracellular mechanisms responsible for the "pull" in the closing of wounds. The article will also be used for research on atherosclerosis and coronary disease which concerns the study of the mechanism of degenerative changes in the coronary arteries. Application received by Commissioner of Customs: December 20, 1973.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.74-4284 Filed 2-22-74;8:45 am]

MILLARD FILLMORE HOSPITAL, ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before March 18, 1974.

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

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

Docket Number: 74-00251-33-46040. Applicant: Millard Fillmore Hospital, 3 Gates Circle, Buffalo, New York 14209. Article: Electron Microscope, Model EM-10. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to study the pathogenesis of primary and secondary human renal diseases. The principal applications will be concerned with the identification of ultrastructural alterations in the subcellular fractions of visceral epithelial cells, endothelial cells, mesangial cells, and tubular epithelial cells of glomeruli. In addition, the article will be used in the training of pathology residents in the Department of Pathology at the Hospital. Application received by Commissioner of Customs: December 14, 1973.

Docket Number: 74-00253-33-46040. Applicant: Presbyterian University of Pennsylvania Medical Center, 51 N. 39th Street, Philadelphia, Pennsylvania 19104. Article: Electron Microscope, Model EM 301. Manufacturer: Philips Electronic Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of isolated blood vessels, heart and skeletal muscle from normal experimental subjects as well as diseased organs. The major objective of the investigations is to determine the source of calcium used for contraction in various muscles and the cellular loci where calcium is sequestered when muscle is relaxed. The investigation of diseased blood vessels will be used to determine the sites of deposition of calcium in atherosclerosis, while similar studies on blood vessels will be directed toward determining the fundamental defect in producing high blood pressure. The article will also be used in the research training of graduate students and post-doctoral fellows. Application received by Commissioner of Customs: December 19, 1973.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.74-4283 Filed 2-22-74;8:45 am]

UNIVERSITY OF IOWA HOSPITALS

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

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

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

Docket Number: 74-00023-33-90000. Applicant: University of Iowa Hospitals & Clinics, Newton Road, Iowa City, Iowa 52242. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article will be used to evaluate a diagnostic technique based on studying differential absorption coefficient of tissue densities within the skull. Comments: No comments have been received with respect to this application.

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

Reasons: The foreign article is a newly developed system which is designed to provide precise transverse axial tomography. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated October 5, 1973 that the speed, resolution and accuracy of the article is pertinent to the applicant's use in collaborative studies of evaluation and in clinical trials intended to study the potential of the article to

diagnose with greater reliability than present instrumentation distinguishing tumors from infarcts. HEW also advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for the appplicant's intended purposes.

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

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director,
Special Import Programs.

[FR Doc.74-4282 Filed 2-22-74;8:45 am]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

GROUNDFISH FISHERIES

Closure of Season

On February 19, 1974, the Director, National Marine Fisheries Service, determined that United States vessels operating in regulatory area Subarea 5, West of 69°00′ W. longitude had reached the quarterly catch limit for yellowtail flounder of 2,750 metric tons for the period January 1–March 31, 1974, as published in 39 FR 2022, January 16, 1974.

As authorized by 50 CFR 240.23(d), notice hereby is given that the season for taking yellowtail flounder without restriction as to quantity by persons and vessels subject to the jurisdiction of the United States will terminate in the above area at 0001 hours local time, February 25, 1974. The restriction will remain in effect until 0001 hours local time, April 1, 1974.

Issued at Washington, D.C., and dated February 20, 1974.

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

[FR Doc.74-4281 Filed 2-22-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CASTLE AND COOKE FOODS

Canned Pineapple Juice Deviating From Identity Standard Temporary Permit for Market Testing

Pursuant to § 10.5 (21 CFR 10.5) concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated pursuant to section 401 (21 U.S.C. 341) of the Federal Food, Drug, and Cosmetic Act, notice is given that a temporary permit has been issued to Castle and Cooke Foods, 50 California St., San Francisco, CA 94111. This permit covers limited interstate marketing tests of canned pineapple juice that deviates from its respective standard of identity prescribed in § 27.54 (21 CFR 27.54) in that the canned pineapple juice will be prepared from concentrated pineapple juice. The concentrate will be reconstituted with water to a uniform 13.5° Brix level. The product will be unsweetened and contain added ascorbic acid (vitamin C) in a quantity such that the total vitamin C in each six fluid ounces of the finished food will be 60 milligrams.

The principal display panel of the labels will declare the name "unsweetened pineapple juice from concentrate" and the statement "fortified with vitamin C." Further, nutrition labeling as provided for in § 1.17 in (21 CFR 1.17) shall be set out on the label.

This permit is effective for one year. The one-year period will begin on the date the new food is introduced or caused to be introduced into interstate commerce but no later than May 28, 1974.

Dated: February 15, 1974.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.74-4297 Filed 2-22-74;8:45 am]

[DESI 5773]

CERTAIN VAGINAL PREPARATION CONTAINING SULFANILAMIDE, AMINACRINE HYDROCHLORIDE, AND ALLANTOIN

Drugs for Human Use; Drug Efficacy Study Implementation

In a notice (DESI 5773) published in the FEDERAL REGISTER of July 27, 1972 (37 FR 15030), the Commissioner of Food and Drugs announced his conclusions pursuant to the evalution of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

NDA 6-530; AVC Cream containing sulfanilamide, aminacrine hydrochloride, and allantoin; Merrell-National Laboratories, Division of Richardson-Merrell Inc., 110 East Amity Road, Cincinnati, OH 45215.

The notice stated that the drug was regarded as possibly effective for Haemophilus vaginalis vaginitis, trichomoniasis, and vulvovaginal candidiasis, and lacking substantial evidence of effectiveness for cervicitis and cervical infections.

Nylmerate Jelly (NDA 5-773) was also included in the publication of July 27, 1972. It is not affected by this notice.

Data submitted by Merrell-National Laboratories pursuant to the notice, and a review of the literature, while not providing substantial evidence of effectiveness for the possibly effective indications, indicate that the drug may be useful for relief of symptoms of vulvovaginitis where isolation of the specific organism responsible is not possible. Therefore, this drug is reclassified and is regarded as less than effective (probably effective) for relief of symptoms of vulvovaganitis where isolation of the specific organism responsible is not possible. Indications previously classified as possibly effective continue to be regarded as less than effective (possibly effective).

The Indications and Dosage and Administration sections of the labeling should be as follows:

INDICATIONS

Based on a review of this drug by the National Academy of Sciences-National Research Council and/or other information, FDA has classified the indications as follows:

"Probably" effective: For the relief of symptoms of vulvovaginitis where isolation of the specific organism responsible (usually *Trichomonas vaginalis, Candida albicans,* or *Haemophilus vaginalis*) is not possible.

NOTE.—When the offending organism is known, treatment with a specific agent known to be active against that microorganism is preferred.

"Possibly" effective: For the treatment of trichomoniasis, vulvovaginal candidiasis, and vaginitis due to *Haemophilus vaginalis* or other susceptble bacteria.

Final classification of the less-than-effective indications requires further investigation.

DOSAGE AND ADMINISTRATION

One applicatorful (about 6 g.) intravaginally once or twice daily. Improvements in symptoms should occur within a few days, but treatment should be continued through one complete menstrual cycle unless a definite diagnosis is made and specific therapy initiated.

If there is no response within a few days or if symptoms recur, the drug should be discontinued and another attempt made by appropriate laboratory methods to isolate the organism responsible (*Trichomonas vaginalis, Candida albicans, Haemophilis vaginalis*) and institute specific therapy.

Douching with a suitable solution before insertion may be recommended for hygenic purposes. A pad may be used to protect underclothing if necessary.

Any data submitted in response to this notice to support indications for which a drug is classified as other than effective must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) and described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 FR 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

All identical, related, and similar drug products, not the subject of an approved new drug application, are covered by the application reviewed and are subject to this notice. See 21 CFR 130.40 (37 FR 23185, October 31, 1972). Any person who wishes to determine whether a specific product is covered by this notice should write the Food and Drug Administration, Bureau of Drugs, Office of Compliance (HFD-300), 5600 Fishers Lane, Rockville, MD 20852.

Holders of approved new drug applications are requested to submit on or before April 26, 1974, supplements for revised labeling. Such supplements should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9 (d) and (e)) which permit certain changes to be put into effect at the earliest possible time.

Communications forwarded in response to this notice should be identified with the reference number DESI 5773, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852.

Supplements (identify with NDA number): Office of Scientific Evaluation (HFD–100), Bureau of Drugs.

Original new drug applications: Office of Scientific Evaluation (HFD–100), Bureau of Drugs.

Requests for the Academy's report: Drug Efficacy Study Information Control (HFD–8), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Manager (HFD–101), Bureau of Drugs.

(Secs. 502, 505, 52 Stat. 1050–53, as amended; (21 U.S.C. 352, 355)) and the Administrative Procedure Act (5 U.S.C. 554) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: February 12, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–4295 Filed 2–22–74;8:45 am]

GASTROINTESTINAL DRUGS ADVISORY COMMITTEE

Notice of Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App.)), the Food and Drug Administration announces the establishment by the Secretary, Department of Health, Education, and Welfare, on January 3, 1974, of the following public advisory committee:

Designation: Gastrointestinal Drugs Advisory Committee.

Purpose: The Committee will (1) review and evaluate all available data concerning the safety and effectiveness of presently marketed and new prescription drug products proposed for marketing for the treatment of gastrointestinal diseases and (2) advise the Commissioner of Food and Drugs regarding current advances, changing concepts, and trends in the field of gastroenterology.

Authority for this committee will expire January 3, 1976, unless the Secretary formally determines that continuance is in the public interest.

Dated: February 13, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–4298 Filed 2–22–74;8:45 am]

MEDICAL DEVICE CLASSIFICATION PANELS

Request for Nominations for Members; Panels for Ophthalmic Devices and Devices Used in Neurology

In his message to the Congress on consumer affairs on October 30, 1969, the President requested the Secretary of Health, Education, and Welfare, to determine the scope and nature of additional legislative controls to protect the public against unreasonable risk of injury or illness from medical devices. The Secretary established a Study Group on Medical Devices for this purpose under the chairmanship of Theodore Cooper, M.D., Director of the National Heart and Lung Institute. The Study Group completed its report, entitled "Medical Devices: A Legislative Plan," in September 1970. (The report of the Study Group is available for public review at the office of the Hearing Clerk, Food and Drug Administration, Room 6–86, 5600 Fishers Lane, Rockville, MD 20852, during regular working hours Monday through Friday, and may be purchased from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22151.)

The Cooper Committee recommended an immediate, systematic review of existing medical devices, and classification of these devices into three categories: (1) Those requiring premarketing clearance, (2) those for which standards would be appropriate, and (3) those which should be exempt from premarketing review and standards. The Secretary requested that the Commissioner of Food and Drugs immediately undertake an industry-wide inventory of existing medical devices, and their classification into the three categories listed above, pending introduction and enactment of appropriate new medical device legislation.

In 1972, an inventory of existing medical devices was developed. Information for this inventory was obtained by sending questionnaires to over 4,000 addresses in the United States. From the approximately 2,000 replies received, 1,100 manufacturers in the United States were identified as supplying medical devices. From these manufacturers a list of approximately 8,000 devices was developed.

The classification of devices which was requested by the Secretary has been initiated by dividing all devices into 14 separate categories generally based on medical specialties. These are: orthopedics; cardiovascular; dental; anesthesiology; obstetrics and gynecology; gastroenterology and urology; ear, nose, and throat; plastic and general surgery; physical medicine; neurological disease; general hospital and personal use; ophthalmology; radiology; and clinical pathology.

The Commissioner has established the first eight panels to review and classify devices that fall within their respective medical specialty areas. The Commissioner now is preparing to establish panels for ophthalmic devices and for devices used in neurology.

Notice is hereby provided for all interested persons to nominate qualified physicians, engineers, or scientists to serve on these two device classification panels. Nominations for these qualified experts are invited from individuals and from consumer, industry, and professional organizations, and should be sent to:

Dr. Carl W. Bruch, Food and Drug Administration, Office of Medical Devices (HFM–120), 5600 Fishers Lane, Rockville, MD 20852.

Nominations must state that the person nominated is aware of the nomination, is interested in becoming involved in this effort, and appears to have no conflict of interest. A complete curriculum vitae must be enclosed with each nomination. Nominees shall be qualified by training, education, and experience in the field of medical devices and have particular expert knowledge in the specialty area concerned.

The Commissioner has concluded that, in addition to qualified experts, each panel should also include one non-voting representative of the consumer interests and one non-voting representative of the regulated industry.

Accordingly, any group or organization interested in participating in the selection of an appropriate representative of the consumer interests for each panel should send such nominations to:

Mr. Alexander Grant, Food and Drug Administration, Director, Consumer Affairs (HFI–1), 5600 Fishers Lane, Rockville, MD 20852.

After receipt of such nominations, a list of the nominees for the consumer interests for each panel will be compiled and submitted to each consumer group or organization responding along with a voting sheet, which will be filed in and returned to the Food and Drug Administration. The nominee with the highest number of votes will be the consumer representative for that panel.

Similarly, any group or organization interested in participating in the selection of an appropriate representative of the regulated industry for each panel should send such nominations to Dr. Carl W. Bruch at the address given above. Separate nominations should be specified for each panel. After receipt of such nominations, a list of the nominees for the industry representative for each panel will be compiled and submitted to each industry group or organization responding. The responding parties, after deliberating among themselves, will select the industry representative. If the responding parties do not provide the name of the industry representative for each panel by a predetermined date, the Food and Drug Administration will choose the industry representative.

It will be the responsibility of the nonvoting consumer and industry members of the panel to represent the consumer and industry interests in all deliberations.

To be considered, nominations of experts to serve on the two panels now being formed, and letters from consumer and industry groups and organizations

expressing an interest in participating in the selection of a consumer and an industry non-voting member for each panel, must be received on or before March 30, 1974.

The Commissioner is preparing and will publish in the FEDERAL REGISTER a description of how the panels will function. An opportunity will be provided for all interested persons to present information and views to the panels for their consideration in the classification process.

Dated: February 12, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-4293 Filed 2-22-74;8:45 am]

[Docket No. FDC-D-248; NDA 12-362; DESI 7750]

METHYLPREDNISOLONE

Drugs for Human Use—Drug Efficacy Study Implementation

The Food and Drug Administration published a notice in the FEDERAL REGISTER of October 21, 1970 (35 FR 16424) concerning certain glucocorticoids for human use. All except one of the products were evaluated as effective, probably effective, possibly effective, and lacking substantial evidence of effectiveness for the various labeled indications.

The following drug was evaluated as no higher than possibly effective:

Medrol Medules, containing methylprednisolone; The Upjohn Co., 7171 Portage Road, Kalamazoo, Michigan 49002 (NDA 12-362).

The basis of the lower evaluations was the fact that the labeling represented the product to have prolonged effect. It has subsequently been determined that the product is made up of pellets, all of which are coated to resist dissolution in the stomach but permit disintegration at the pH of the small intestine, rather than being designed for gradual release. Therefore, it is concluded that the product is (1) effective and less than effective (probably effective) for the indications evaluated as effective and probably effective for the conventional form of Medrol Tablets (NDA 11-153) as described in the notice of October 21, 1970, and (2) subject to the marketing conditions described in that notice for the conventional form. Other indications which were previously published as possibly effective are regarded as lacking substantial evidence of effectiveness in that no data have been submitted concerning them. Upjohn has supplemented NDA 12-362 (Medrol Medules) to provide labeling in accord with that published for Medrol Tablets (and other glucocorticoids) in the notice of October 21, 1970 and which contains no claim for sustained release or prolonged effect.

Notice of opportunity for a hearing. Notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto providing for indications lacking substantial evidence of effectiveness, referred to above, on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

Any manufacturer or distributor of such an identical, related or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn.

On or before March 27, 1974, the applicant(s) and any other interested person may file with the Hearing Clerk, Food and Drug Administration, Room 6-86, 5600 Fishers Lane, Rockville, Maryland 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within the specified time will constitute an election by him not to avail himself of the opportunity for a hearing. No extension of time may be granted.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s) which have not been supplemented to delete the indication(s) lacking substantial evidence of effectiveness.

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, on or before March 27, 1974, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claim(s) involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order making findings and conclusions on such data and withdrawing approval of application(s) not supplemented to delete the claim(s) involved.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after March 27, 1974, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed and are subject to this notice. See 21 CFR 130.40 (37 FR 23185, October 31, 1972). Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (HFD-300), 5600 Fishers Lane, Rockville, Maryland 20852.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended (21 U.S.C. 352, 355)) and the Administrative Procedure Act (5 U.S.C. 554) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: February 15, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-2294 Filed 2-22-74;8:45 am]

PULMONARY-ALLERGY AND CLINICAL IMMUNOLOGY ADVISORY COMMITTEE

Notice of Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776; (5 U.S.C. App.)) the Food and Drug Administra-

tion announces the renewal by the Secretary, Department of Health, Education, and Welfare, of the Pulmonary-Allergy and Clinical Immunology Advisory Committee for an additional period of 2 years beyond February 17, 1974.

Authority for this committee will expire February 17, 1976, unless the Secretary formally determines that continuance is in the public interest.

Dated: February 15, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-4296 Filed 2-22-74;8:45 am]

Health Resources Administration

FEDERAL HOSPITAL COUNCIL ET AL.

Notice of Meetings

The Administrator, Health Resources Administration, announces the meeting dates and other required information for the following National Advisory bodies scheduled to assemble the month of March 1974:

Committee name	Date, time, place	Type of meeting and/or contact person
Federal Hospital Council.	March 12, 9:00 a.m., Conference Room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Closed, 9:00 to 10:00 a.m., Open, 10:00 a.m., to 5:00 p.m., Contact Russell Z. Seidel, Room 15-35, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20852. Code 301-443-2940.

Purpose. The Council is charged with advising on policies and regulations under Title VI of the Public Health Service Act and to provide final review of grant applications for Federal assistance in the program area administered by the Bureau of Health Services Research.

Agenda. The Council will review research grant applications from 9 to 10 a.m and this portion will be closed to the public in accordance with the determination made by the Administrator, Health Resources Administration, pursuant to the provisions of Pub. L. 92-463, section 10(d). The remainder of the meeting will be open to the public for the Chief, Division of Facilities Utilization to submit his report.

Committee name	Date, time, place	Type of meeting and/or contact person
Joint Meeting of the National Advisory Health Services Council and the Federal Hospital Council.	March 13, 9:00 a.m., Conference Room E, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—Contact Russell Z. Seidel, Room 15-35, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20852. Code 301-443-2940.

Purpose. The Councils are charged with advising on policies and regulations under Title III and Title VI of the Public Health Service Act.

Agenda. The Councils will be receiving reports from the Acting Director and staff members of the Bureau of Health Services Research relative to program plans and priorities. Council members will be informed of the Bureau's new organizational structure. The meeting will be open to the Public.

Committee name	Date, time, place	Type of meeting and/or contact person
National Advisory Health Services Council.	March 14, 9:00 a.m., Conference Room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Closed—Contact Russell Z. Seidel, Room 15-35, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20852. Code 301-443-2940.

Purpose. The Council is charged with advising on policies, needs, and requirements for research and development designed to increase effectiveness and efficiency of medical care and health services. Council is also charged with the final review of grant applications for Federal assistance in the program areas administered by the Bureau of Health Services Research.

Agenda. The Council will review research grant applications for Federal assistance and will be closed to the public in accordance with the determination made by the Administrator, Health Resources Administration, pursuant to the provisions of Pub. L. 92-463, Section 10(d).

Agenda items are subject to change as priorities dictate.

Those portions of the meetings so indicated, are open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members or other relevant information on the Councils, should contact the person listed above.

Dated: February 15, 1974.

KENNETH M. ENDICOTT,
Administrator, Health Resources Administration.

[FR Doc.74-4327 Filed 2-22-74;8:45 am]

NATIONAL ADVISORY PUBLIC HEALTH TRAINING COUNCIL

Notice of Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776) the Health Resources Administration announces the approval of renewal by the Secretary, DHEW, on January 11, 1974, with concurrence by the Office of Management and Budget Committee Management Secretariat, of the following advisory committee:

Designation. National Advisory Public Health Training Council.

Purpose. Advises the Secretary and the Administrator, Health Resources Administration, on matters relating to Department programs and interests in support of training for professional public health personnel and related activities. The Council reviews grant applications for support of training projects for innovation and curriculum development in public health education and makes recommendations to the Administrator, Health Resources Administration.

Authority for this committee will expire June 30, 1974, unless the Secretary, DHEW, with the concurrence of the Office of Management and Budget Committee Management Secretariat, formally determines that continuance is in the public interest.

Dated: February 19, 1974.

KENNETH M. ENDICOTT,
Administrator, Health Resources Administration.

[FR Doc.74-4326 Filed 2-22-74;8:45 am]

National Institutes of Health

NATIONAL CANCER INSTITUTE

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Control Education Review Committee, National Cancer Institute, March 4, 1974, 8:30 a.m., National Institutes of Health, Building 31, Conference Room 8. This meeting will be open to the public from 8:30 a.m. to 10:30 a.m., March 4, 1974, to discuss minutes of last meeting, announcements, program report and future meeting dates and closed to the public from 10:30 a.m. to 5:00 p.m., March 4, 1974, to review applications for contracts in the fields of education and training in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code and 10(d) of Pub. L. 92-463. Attendance by the public will be limited to space available.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014, (301-496-5708) will furnish summaries of the open/closed meeting and a roster of committee members.

Margaret H. Edwards, M.D., Executive Secretary, Blair Building, Room 729, National Institutes of Health, Silver Spring, Maryland 20910, (301-427-8080) will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.825, National Institutes of Health)

Dated: February 15, 1974.

ROBERT S. STONE,
Director, National Institutes of Health.

[FR Doc.74-4450 Filed 2-22-74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. D-74-266]

DEPUTY ASSISTANT SECRETARY AND EXECUTIVE ASSISTANT TO ASSISTANT SECRETARY

Delegation To Exercise Power of Authority

Delegation to exercise power of authority of the Assistant Secretary for

Community Planning and Development during any period when by reason of absence, disability, or vacancy of the Office, the Assistant Secretary is unable to act as Assistant Secretary, effective upon existence of a State of Civil Defense Emergency.

During any period when, by reason of absence, disability, or vacancy in Office, the Assistant Secretary for Community Planning and Development is unable to act as Assistant Secretary, each of the officers appointed to the following positions in the Office of the Assistant Secretary for Community Planning and Development is hereby authorized to exercise the power and authority of the Assistant Secretary, provided that no officer is authorized to exercise the power and authority of the Assistant Secretary unless other officer whose title precedes his in this delegation is unable to act by reason of absence, disability, or vacancy in office:

1. Deputy Assistant Secretary, Community Planning and Development.
2. Executive Assistant to Assistant Secretary for Community Planning and Development.

This delegation shall become effective only upon the existence of a state of civil defense emergency, as proclaimed by the President or by concurrent resolution of the Congress, as provided under section 301 of the Federal Civil Defense Act of 1950, 64 Stat. 1251, 50 U.S.C. App. 2291.

(Sec. 7(d) Dept. of HUD Act, (42 U.S.C. 3535(d); 3/27/73 38 FR 8011; 3/16/71 36 FR 5004)

Effective date. This delegation of authority is effective February 4, 1974.

D. O. MEEKER, Jr.,
Assistant Secretary for Community Planning and Development

[FR Doc.74-4334 Filed 2-22-74;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Revised Notice of Meeting

FEBRUARY 20, 1974.

This notice is a revision of the notice dated February 14, 1974, regarding the 167th ACRS meeting to be held in Washington, D.C., on March 7–9, 1974, in Room 1046, 1717 H Street NW., Washington, D.C.

The following constitute the portions of the meeting which will be open to the public:

(1) *Thursday, March 7, 1974: 9:15 AM–12:00 N: Meeting on North Anna Power Station Units 3 and 4*—The Committee will hear presentations from and hold discussions with representatives of the AEC Regulatory Staff and the Virginia Electric Power Company regarding the application for a construction permit for this facility, particularly the seismic conditions at the site.

This meeting will include closed sessions, if required, to discuss security plans for this facility and privileged information related to the reactor fuel.

(2) *Thursday, March 7, 1974: 2:15 PM–6:00 PM: Grand Gulf Nuclear Station Units 1 and 2*—The Committee will consider the construction permit application for this plant. This will include presentations by representatives and consultants of the AEC Regulatory Staff and the Mississippi Power and Light Company and discussions with these groups. Closed sessions will be held during this period, if required, to discuss proprietary information related to fuel element, design, fabrication and operation, including loss-of-coolant accident analysis and security plans for this facility.

(3) *Friday, March 8, 1974: 9:30 AM–11:00 AM: Meeting with AEC Regulatory Staff*—To hear presentations and discuss matters related to reactor operating experience and licensing activities, including:

Zion Station—Neutron flux tilt, performance of diesel-generators, and control rods.

Oconee Nuclear Station Unit 2—Primary coolant pump failure.

Shippingport Nuclear Station—Failure of turbine-generator.

Performance of Diesel-Generators at Nuclear Plants.

It should be noted that, in addition to the agenda items noted above, the Committee will hold other sessions not open to the public under the authority of section 10(d) of Pub. L. 92–463 (the Federal Advisory Committee Act), to consider the above applications and other matters. I have determined that it is necessary to close such portions of the meeting to protect the free interchange of internal views and to avoid undue interference with agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Committee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by mailing 25 copies thereof, postmarked no later than February 27, 1974, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such written comments shall be based on documents related to the agenda items noted above, and related documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., 20545, and as follows:

Grand Gulf Nuclear Station, Units 1 and 2

Deputy Chancery Clerk, Claiborne County Courthouse, Port Gibson, Mississippi 39150.

North Anna Nuclear Station

Office of Mr. Dean Agee, Executive Secretary, Board of Supervisors, Louisa County Courthouse, Louisa, Virginia 23093.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Committee. To the extent that the time available for the meeting permits, the Committee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Committee.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Committee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting or portions of the meeting have been cancelled or rescheduled, and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on March 6, 1974, to the Office of the Executive Secretary of the Committee (telephone: 301–973–5651) between 8:30 AM and 5:15 PM daylight saving time.

(e) Questions may be propounded only by members of the Committee and its consultants.

(f) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(g) Persons desiring to attend portions of the meeting where proprietary information is being discussed may do so by providing, 7 days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(h) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. On request, copies of the minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C., on or after May 10, 1974. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-4521 Filed 2-22-74;10:02 am]

[Docket No. 50-263]

NORTHERN STATES POWER CO.

Notice and Order Designating Time and Location of Prehearing Conference

Before the Atomic Safety and Licensing Board. In the matter of Northern States Power Company, (Monticello Nu-

clear Generating Plant), Docket No. 50-263.

Take notice that, pursuant to the order of the Atomic Safety and Licensing Board (the Board) issued on November 28, 1973, convening a second prehearing conference in this proceeding, the Board will hold a prehearing conference on March 19, 1974, at 10:00 a.m., local time, in the Pioneer Suite, The Saint Paul Hilton, 11 East Kellogg Boulevard, St. Paul, Minnesota 55101.

The purposes of the prehearing conference are to permit identification of the key issues in the proceeding, to establish a schedule for further actions in the proceeding, and to deal with such other of the matters stated in § 2.752 of the Commission's rules of practice (10 CFR 2.752) as may be appropriate.

Members of the public may attend this prehearing conference as well as the evidentiary hearing which will be held at a later time to be fixed by the Board. However, members of the public who may wish to participate in the hearing by way of limited appearances will not be permitted to do so at the prehearing conference. Oral or written statements offered by way of limited appearances will be received by the Board at the time of the aforementioned evidentiary hearing.

It is ordered that the parties or their representatives shall conduct such informal conferences as may be practicable to expedite the proceeding and in particular to advance the purposes of the prehearing conference.

Issued at Washington, D.C., this 20th day of February 1974.

It is so ordered.

ATOMIC SAFETY AND LICENSING BOARD,
ROBERT M. LAZO,
Chairman.

[FR Doc.74-4335 Filed 2-22-74;8:45 am]

[Docket No. 50-244]

ROCHESTER GAS AND ELECTRIC CORP.

Order Regarding Rescheduling of Prehearing Conference

Following discussion with all parties to this proceeding by conference telephone call on February 15, 1974, a "Motion for Postponement of Prehearing Conference" made by Intervenor Michael Slade was granted orally by the Board. That conference had been scheduled to take place on February 20, 1974.

The prehearing conference in this matter is hereby rescheduled and will take place on March 12, 1974, at 9:30 a.m., local time, in the East Courtroom, 2nd Floor, U.S. District Court, 100 State Street, Rochester, New York.

Issued at Washington, D.C., this 19th day of February 1974.

It is so ordered.

ATOMIC SAFETY AND LICENSING BOARD,
EDWARD LUTON,
Chairman.

[FR Doc.74-4320 Filed 2-22-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26308]

OUT ISLAND AIRWAYS, LTD.

Miami-Bahamas Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of February 1974.

By tariffs filed December 20, 1973, for January 19, 1974 effectiveness, Out Island Airways Limited (Out Island) established individual three-day inclusive-tour fares between Miami, Florida, and Freeport, Bahamas at $32.00 round trip.[1] Use of this fare, which is scheduled to expire on April 20, 1974, requires purchase of a fully prepaid vacation package offered for sale to the public, which must include round-trip transportation and sleeping accommodations for the total duration of the trip. The minimum selling price of the tour per passenger would be the inclusive-tour fare plus $46.00. Return travel must commence on the third day after the date of outgoing departure.

A complaint requesting suspension and investigation of Out Island's individual inclusive-tour fare has been filed by Eastern Air Lines, Inc. (Eastern). Eastern alleges that the proposed fare is unsupported by any economic justification and is unjust and unreasonable. In support of its complaint, Eastern states that the present round-trip economy fare between Miami and Freeport is $46; the proposed fare of $32, which is 30 percent below the regular fare, would cause diversion and down-grading of passengers who would otherwise move at the higher fare level and the fare cannot be economically justified and should not be permitted to become effective absent a profit impact showing that it will generate sufficient additional traffic to offset the widespread dilution anticipated. Eastern notes that its international operations in the Western Hemisphere, including Florida-Bahamas service, recorded a return of investment of only 3 percent in the 12 months ended June 30, 1973. Notwithstanding fare adjustments associated with fuel-cost escalation, Eastern is in no position to withstand dilution of its existing revenues between Florida and the Bahamas.

An answer to Eastern's complaint has been filed by Out Island. Out Island contends that the proposed fare is offered only in connection with a specific tour which requires a stay of three days and the purchase of a land package of $46; a discount of 30 percent from regular fares is not unusually large for an inclusive-tour fare; Eastern's contention that the fare is uneconomic and disregards the revenue requirements of both carriers is completely without foundation; and there is no reason to assume that an inclusive-tour fare with a yield of approximately 12.8 cents a mile is uneconomic.

Regarding Eastern's contention that it will sustain substantial diversion, Out Island alleges that Eastern is the dominant carrier in the market, providing five daily round trips with 115-seat DC-9 aircraft compared with Out Island's two round trips with 79-seat BAC 1-11 aircraft. Eastern is alleged to offer four times as many seats as Out Island, and the thought that the latter's fare will have a significant impact on Eastern's dominant market position cannot withstand scrutiny. Out Island contends that the fare at issue can meet the needs of only a small number of passengers, not only because it requires a three-day stay but also because it is offered in connection with a specified land package and specific limited hotel accommodations. Out Island points out that any impact on Eastern will be minimized by the fact that the fare is only temporary (expiring on April 20, 1974), and is meant to take care of a temporary problem pertaining to tour programs of the carrier.

After consideration of the arguments advanced by both carrier parties, the Board has decided to dismiss the complaint and let the tariffs filed by Out Island stand for the limited period through April 20, 1974, as proposed.

We agree that Eastern can be expected to suffer some diversion to the proposed lower rated fare and that Out Island has made no showing that the fare will generate new passengers. The fare at issue, however, can hardly be considered uneconomic despite the fact that it represents a 30 percent discount from the normal economy fare. The fare would produce a yield of 14.5 cents per passenger-mile in contrast to Eastern's international yield as reported in Form 41 Reports for the 12-month period ended September 30, 1973, of 5.06 cents per revenue passenger-mile.[2] Even considering the high costs of such a short haul (110 miles one way), the conditions on use of the fare and its short period of effectiveness should limit any significant impact on Eastern.

Upon consideration of the tariff, the complaint and answer thereto, and other relevant matters, the Board concludes that the complaint does not state facts which warrant suspension or investigation and the request will be denied and the complaint dismissed.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof;

It is ordered, That the complaint of Eastern Air Lines, Inc. in Docket 26308 is dismissed.

This will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-4362 Filed 2-22-74;8:45 am]

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[1] Local Passenger Tariff No. 1, C.A.B. No. 1, 4th Revised Page 43.

[2] On the other hand the normal economy fare produces a yield in excess of 20 cents per revenue passenger-mile.

COMPTROLLER GENERAL

1974 FEDERAL ELECTION EXPENDITURE LIMITATIONS

Communications Media

Title I of the Federal Election Campaign Act of 1971 (Pub. L. 92-225) imposes a spending limitation on candidates for Federal elective office (President of the United States, Senator and Representative in, or Resident Commissioner or Delegate to, the Congress of the United States) for campaign use of communications media. Under the Act and the Regulations of the Comptroller General, 11 CFR Ch. 1, "communications media" means radio, television, cable television, magazines, newspapers, billboards, display space in any public place of a type customarily leased to commercial advertisers, and telephones when used to communicate with potential voters by general canvass methods.

Under section 104(a)(4) of the Act, the Secretary of Labor has certified to the Comptroller General and published in the FEDERAL REGISTER [1] that the United States city average All Items Consumer Price Index (1967=100) increased 14.4 percent from its 1970 annual average of 116.3 to its 1973 annual average of 133.1.

Under section 104(a)(5) of the Act, the Secretary of Commerce has certified to the Comptroller General and published in the FEDERAL REGISTER [2] an estimate of the voting age population (18 years and older) for calendar year 1973 for each State and congressional district, the District of Columbia, the Commonwealth of Puerto Rico, and the Territories of Guam and the Virgin Islands.

The estimate shows that no congressional district has a voting age population in excess of 500,000, except the District of Columbia and the Commonwealth of Puerto Rico. Under the statutory formula, the communications media spending limitation applicable to each congressional district for each election during 1974 (except the District of Columbia and Puerto Rico) is $57,200, of which no more than $34,320 may be spent for the use of broadcasting stations. The applicable limitations for the District of Columbia and the Commonwealth of Puerto Rico are shown in the attached table.

On the basis of the certifications received from the Secretary of Labor and the Secretary of Commerce, the spending limitations applicable to each Federal election during 1974 in each State and in the United States are set forth in the attached table.

The voting age population estimate for the United States does not include the estimates for Guam, Puerto Rico, and the Virgin Islands because their residents are not entitled to vote in presidential elections.

[SEAL] ELMER B. STAATS,
Comptroller General of the United States.

[1] 39 FR 6571, February 20, 1974.
[2] 39 FR 5350, February 12, 1974.

February 1, 1974 CPI Increase=14.4 Federal Election Campaign Media Spending Limitations (Calendar Year 1974, PL 92-225)

State and Congressional district	Voting age population	Communication media limit	Broadcasting media limit
United States	141,656,000	16,205,446	9,723,268
Alabama	2,338,000	267,467	160,480
Alaska	200,000	57,200	34,320
Arizona	1,345,000	153,868	92,321
Arkansas	1,374,000	157,186	94,311
California	14,143,000	1,617,959	970,776
Colorado	1,631,000	186,586	111,952
Connecticut	2,101,000	240,354	144,213
Delaware	382,000	57,200	34,320
District of Columbia	529,000	60,518	36,311
Florida	5,427,000	620,849	372,509
Georgia	3,140,000	359,216	215,530
Hawaii	549,000	62,806	37,683
Idaho	501,000	57,314	34,389
Illinois	7,568,000	865,779	519,468
Indiana	3,530,000	403,832	242,299
Iowa	1,957,000	223,881	134,328
Kansas	1,570,000	179,608	107,765
Kentucky	2,235,000	255,684	153,410
Louisiana	2,399,000	274,446	164,667
Maine	689,000	78,822	47,293
Maryland	2,720,000	311,168	186,701
Massachusetts	4,006,000	458,286	274,972
Michigan	5,922,000	677,477	406,486
Minnesota	2,575,000	294,580	176,748
Mississippi	1,453,000	166,223	99,734
Missouri	3,251,000	371,914	223,149
Montana	474,000	57,200	34,320
Nebraska	1,042,000	119,205	71,523
Nevada	365,000	57,200	34,320
New Hampshire	531,000	60,746	36,448
New Jersey	5,030,000	575,432	345,259
New Mexico	691,000	79,050	47,430
New York	12,665,000	1,448,876	869,326
North Carolina	3,541,000	405,090	243,054
North Dakota	421,000	57,200	34,320
Ohio	7,175,000	820,820	492,492
Oklahoma	1,832,000	209,581	125,748
Oregon	1,532,000	175,261	105,156
Pennsylvania	8,240,000	942,656	565,594
Rhode Island	677,000	77,449	46,469
South Carolina	1,775,000	203,060	121,836
South Dakota	454,000	57,200	34,320
Tennessee	2,799,000	320,206	192,123
Texas	7,785,000	890,604	534,362
Utah	715,000	81,796	49,078
Vermont	309,000	57,200	34,320
Virginia	3,243,000	370,999	222,600
Washington	2,329,000	266,438	159,863
West Virginia	1,228,000	140,483	84,290
Wisconsin	3,033,000	346,975	208,185
Wyoming	234,000	57,200	34,320
OUTLYING AREAS			
Guam	52,000	57,200	34,320
Puerto Rico	1,651,000	188,874	113,325
Virgin Islands	44,000	57,200	34,320

[FR Doc.74-4354 Filed 2-22-74;8:45 am]

COST OF LIVING COUNCIL

FOOD INDUSTRY WAGE AND SALARY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given that the Food Industry Wage and Salary Committee, established under the authority of section 212(f) of Economic Stabilization Act, as amended, section 4(a)(iv) of Executive Order 11695, and Cost of Living Council Order No. 14, will meet on Thursday, February 28, 1974. The meeting will be open to the public on a first-come, first-served basis at 10:00 a.m., in Conference Room 8202, 2025 M Street, NW., Washington, D.C.

The agenda will consist of a discussion of policy questions involving food industry wage matters, and, if circumstances permit, of food industry wage cases pending before the Cost of Living Council.

The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business.

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

HENRY H. PERRITT, Jr.,
Executive Secretary, Cost of Living Council.

[FR Doc.74-4549 Filed 2-22-74;12:13 pm]

HEALTH INDUSTRY WAGE AND SALARY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given that the Health Industry Wage and Salary Committee, established under the authority of section 212(f) of the Economic Stabilization Act, as amended, section 4(a)(iv) of Executive Order 11695, and Cost of Living Council Order No. 14, will meet on February 28, 1974. The meeting will be open to the public on a first-come, first-served basis at 10:00 a.m. in Conference Room 8009, 2025 M Street NW., Washington, D.C.

The agenda will consist of a discussion of the health industry wage cases currently pending before the Cost of Living Council.

The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business.

Issued in Washington, D.C., on February 21, 1974.

HENRY H. PERRITT, Jr.,
Executive Secretary, Cost of Living Council.

[FR Doc.74-4526 Filed 2-22-74;10:06 am]

ENVIRONMENTAL PROTECTION AGENCY

GUIDELINES FOR DESIGNATION OF AIR QUALITY MAINTENANCE AREAS

Notice of Availability

Copies of EPA "Guidelines for Designation of Air Quality Maintenance Areas" are now available for inspection in State Air Pollution Control Offices, EPA Regional Offices, and the Freedom of Information Center, EPA, 401 M Street SW, Washington, D.C. 20460.

With the assistance of these guidelines, State agencies will identify areas which they propose, after public hearings, to designate as Air Quality Maintenance Areas (AQMA's). These areas are identified as having the potential of exceeding air quality standards between 1975 and 1985. This listing is scheduled to be submitted by the State to EPA by March 18, 1974. After review by EPA, a final listing will be published in the FEDERAL REGISTER by June 18, 1974.

The Clean Air Act of 1970, section 110, requires that States include provisions in

their implementation plans for maintaining ambient air quality within national standards. The basic requirements for developing these provisions were outlined in the regulations for State Implementation Plans published in the FEDERAL REGISTER of August 14, 1971 (36 FR 15486) as 42 CFR 420 and republished on November 25, 1971 (36 FR 22369) as 40 CFR 51.

In the preamble to the June 18, 1973, FEDERAL REGISTER (38 FR 15834) EPA advised that it would provide assistance to the States in "identifying areas which may exceed a national standard within the next 10 years." Accordingly, EPA has published these guidelines for designation of AQMA's.

This is the first of three guidelines to assist the States in establishing regulations and procedures to ensure maintenance of air quality standards. The second guidelines document in the series will cover in-depth analysis of emissions and air quality, and the third will cover development of the 10 year maintenance plans. These are scheduled to be published in May and August of 1974, respectively.

Copies of the guidelines document "Guidelines for Designation of Air Quality Maintenance Areas" may be inspected at the following EPA Regional Offices:

Region I, John F. Kennedy Federal Building, Boston, MA 02203
Region II, Federal Office Building, 26 Federal Plaza, New York, NY 10007
Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106.
Region IV, 1421 Peachtree Street NE., Atlanta, GA 30309
Region V, 1 North Wacker Drive, Chicago, IL 60606
Region VI, 1600 Patterson Street, Suite 1100, Dallas, TX 75201
Region VII, 1735 Baltimore Street, Kansas City, MO 64108
Region VIII, 1860 Lincoln Street, Denver, CO 80203
Region IX, 100 California Street, San Francisco, CA 94111
Region X, 1200 Sixth Avenue, Seattle, WA 98101

Dated: February 16, 1974.

ROGER STRELOW,
Acting Assistant Administrator for Air and Water Programs.

[FR Doc.74-4322 Filed 2-22-74;8:45 am]

[OPP-32000/14]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-37, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before April 26, 1974, any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under section 3(c)(1)(D) against another applicant proposing to use supportive data previously submitted and approved, and (c) wishes to preserve his opportunity for determination of reasonable compensation by the Administrator must notify the Administrator and the applicant named in the FEDERAL REGISTER of his claim by certified mail. Every such claimant must include, at a minimum, the information listed in this interim policy published on November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy in regard to usage of existing supportive data for registration will be processed in accordance with existing procedures. Applications submitted under 2(c) will be held for the 60-day period before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against whom the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after April 26, 1974.

APPLICATIONS RECEIVED

EPA File Symbol 33611-R. A R A Corporation, 2844 Cascadia Avenue, Seattle, Washington 98144. *DSP-80.* Active Ingredients: Polyoxymethylene Glycol 9.1%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11556-UR. Chemagro Corporation, Animal Health Division, P.O. Box 2037, Shawnee Mission, Kansas 66201. *Sendran 50% Wettable Powder Flea and Tick Dip.* Active Ingredients: o-Isopropoxyphenyl methylcarbamate 50%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 1660-AI. Chemical Specialties Co., Inc., 51-55 Nassau Avenue, Brooklyn, New York 11222. *Super Pro Positively Kills Roaches.* Active Ingredients: Pyrethrins 0.10%; Piperonyl butoxide, technical 0.20%; N-octyl bicycloheptene dicarboximide 0.30%; *O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl phosphorothioate 0.50%; Petroleum distillates 95.90%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5736-VEO. DuBois Chemicals, 3630 E. Kemper Road, Sharonville, Ohio 45241. *QD-4.* Active Ingredients: Essential Oils 7.0%; N-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 2.8%; N-Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 2.8%; Ethyl Alcohol 1.4%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1598-EGE. FCX, Inc., P.O. Box 2418, 121 E. Davie Street, Raleigh, North Carolina 27602. *6-2 EC Cotton Insecticide.* Active Ingredients: Toxaphene 53.1%; 0,0-Dimethyl 0-p-nitrophenyl phosphorothiate 17.7%; Xylene 23.7%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 2269-74. Gold Kist Inc., P.O. Box 2210, Atlanta, Georgia. *10% Sevin Dust.* Active Ingredients: Carbaryl (1-Naphthyl N-Methylcarbamate) 10.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 29516-U. Hy-Yield, Incorporated, Route 1, Box 1005, Lake Worth, Florida 33460. *Hy-Yield Brom-O-Gas.* Active Ingredients: Methylbromide 98%; Chloropicrin 2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 29516-L. Hy-Yield, Incorporated, Route 1, Box 1005, Lake Worth, Florida 33460. *Hy-Yield Terr-O-Gas 67.* Active Ingredients: Methyl bromide 67%; Chloropicrin 33%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 29516-G. Hy-Yield, Incorporated, 7965 West Lantana Road, Lake Worth, Florida 33460. *67-33 Preplant Soil Fumigant.* Active Ingredients: Methyl bromide 67%; Chloropicrin 33%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 29516-E. Hy-Yield Incorporated, 7965 West Lantana Road, Lake Worth, Florida 33460. *98-2.* Active Ingredients: Methyl bromide 98%; Chloropicrin 2%. Method of Support: Application proceeds under 2(c), of interim policy.

EPA File Symbol 2491-GEU, Koos, Inc., 4500 13th Court, Kenosha, Wisconsin 53140. *Grants Garden Shop Lawn Food with Crabgrass Control 20-6-6.* Active Ingredients: (N-butyl-N-ethyl-a,a,a-trifluoro-2, 6-dinitro-p-toludine) 0.86%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33618-R. Nationwide Research Corporation, 3916 Swarthmore Road, Durham, North Carolina 27707. *MIL-X.* Active Ingredients: (Calcium Hypochlorite) 5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9779-ERU. Riverside Chemical Company, P.O. Box 16902, Memphis, Tennessee 38116. Riverside BHC 1. Active Ingredients: Gamma isomer of benzene hexachloride 11.8%; Other isomers of benzene hexachloride and related compounds 17.0%; Aromatic Petroleum Solvent 68.1%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1193-TG. 707 Company, 1530 Stillwell Avenue, Bronx, New York 10461. *707 Landlord's Formula-II Insect Spray.* Active Ingredients: N-Octyl Bicycloheptene Dicarboximide 0.20%; d-trans-chrysanthemum monocarboxylic acid ester of d-2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one and other isomers 0.04%; Petroleum distillates 99.76%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1193-TU. 707 Company, 1530 Stillwell Avenue, Bronx, New York 10461. *707 Roach and Ant Spray Residual Formula-II.* Active Ingredients: 0,0-diethyl 0-(2-isopropyl-4-methyl-6-pyrimidinyl phosphorothioate 0.50%; Piperonyl Butoxide, Technical [equivalent to 0.10% (Butylcarbityl) (6-propylpiperonyl) ether and 0.025% related compounds] 0.125%, N-Octyl bicycloheptene dicarboximide 0.20%; Petroleum distillates 98.965%, d-trans-chrysanthemum monocarboxylic acid ester of d-2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one 0.06%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1193-TL. 707 Company, 1530 Stillwell Avenue, Bronx, New York 10461. *707 Landlord's Formula-III Roach and Ant Spray.* Active Ingredients: 0,0-diethyl 0-(2-isopropyl-4-methyl-6-pyrimidinyl phosphorothioate 0.5%; N-Octyl bicycloheptene

dicarboximide 0.175%; Petroleum distillates 98.615%; d-trans-chrysanthemum monocarboxylic acid ester of d-2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one 0.3248%; other isomers 0.00252%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1193–TA. 707 Company, 1530 Stillwell Avenue, Bronx, New York 10461. *707 Residual Formula-4 Roach Bomb.* Active Ingredients: 0, 0-diethyl 0-(2-isopropyl-4-methyl-6-pyrimidinyl phosphorothioate 0.5%; N-Octyl bicycloheptene dicarboximide 0.2%; Piperonyl butoxide, Technical [equivalent to 0.1% (Butylcarbityl) (6-propylpiperonyl) ether and 0.025% related compounds] 0.125%; Petroleum distillates 96.11%; d-trans-chrysanthemum monocarboxylic acid ester of d-2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one 0.0603%; other isomers 0.0047%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 476–ERLG. Stauffer Chemical Company, 1200 South 47th Street, Richmond, California 94804. *FYBRFLUF G+.* Active Ingredients: N-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 3.0% N-Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 3.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9782–EG. Woodbury Chemical Company of Homestead, P.O. Box 4319, Princeton, Florida 33030. *Parathion 2 Dust.* Active Ingredients: Parathion (0, 0-diethyl 0-p-nitrophenyl thiophosphate) 2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9782–EU. Woodbury Chemical Company of Homestead, P.O. Box 4319, Princeton, Florida 33030. *Parathion-Sulfur 2–80 Dust.* Active Ingredients: Parathion (0, 0-diethyl 0-p-nitrophenyl phosphorothioate) 2.0%; Sulfur 80.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9782–EL. Woodbury Chemical Company of Homestead, P.O. Box 4319, Princeton, Florida 33030. *Paran 6–3E.* Active Ingredients: Parathion (0, 0-diethyl 0-p-nitrophenyl phosphorothioate) 56.8%; 0, 0-dimethyl 0-p-nitrophenyl phosphorothioate 28.4%; Xylene-Range Aromatic Solvent 7.0%. Method of Support: Application proceds under 2(c) of interim policy.

EPA File Symbol 9782–EA. Woodbury Chemical Company of Homestead, P.O. Box 4319, Princeton, Florida 33030. *Parathion 8–E.* Active Ingredients: Parathion (0, 0-diethyl 0-p-nitrophenyl phosphorothioate) 83%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9782–ET. Woodbury Chemical Company of Homestead, P.O. Box 4319, Princeton, Florida 33030. *D+2™ Insecticide.* Active Ingredients: Chloropyrifos [0, 0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 12.70%; 2,2-dichlorovinyl dimethyl phosphate 2.95% Related Compounds 0.22%; Aromatic Petroleum Derivative Solvent 66.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9782–EI. Woodbury Chemical Company of Homestead, P.O. Box 4319, Princeton, Florida 33030. *Dursban 4E Insecticide.* Active Ingredients: Chlorpyrifos [0, 0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 43%; Aromatic petroleum derivative solvent 23%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9782–EO. Woodbury Chemical Company of Homestead, P.O. Box 4319, Princeton, Florida 33030. *D/C–4.* Active Ingredients: Chloropyrifos [0, 0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 45.0%; Aromatic petroleum derivative solvent 53.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9782–GN. Woodbury Chemical Company of Homestead, P.O. Box 4319, Princeton, Florida 33030. *Aldrin 2% Granular Insecticide.* Active Ingredients: Aldrin 2.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9781–GR. Woodbury Chemical Company of Homestead, P.O. Box 4319, Princeton, Florida 33030. *Phosdrin 4–E.* Active Ingredients: Alpa Isomer of 2-carbomethoxy-1-methylvinyl dimethyl phosphate 28.3%; Related Compounds 18.8%; Petroleum Hydrocarbons 47.9%. Method of Support: Application proceeds under 2(c) of interim policy.

REPUBLISHED ITEMS

EPA File Symbol 908–UE. Capitol Chemical Company, 5455 Butler Road, Washington, D.C. 20016. *Capitol DDVP Concentrate.* Correction—Method of Support: Application proceeds under 2(a) rather than 2(c) of interim policy as published in the FEDERAL REGISTER of January 25, 1974 (39 FR 3310).

Dated: February 15, 1974.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.74-4270 Filed 2-22-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19940–19941; File No. BPCT 4612, 4673]

COMMERCIAL RADIO INSTITUTE INC. AND WESTERN PENNSYLVANIA CHRISTIAN BROADCASTING CO.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regards applications of Commercial Radio Institute, Inc., Docket No. 19940, File No. BPCT–4612, Pittsburgh, Pennsylvania; Western Pennsylvania Christian Broadcasting Company, Docket No. 19941, File No. BPCT–4673, Pittsburgh Pennsylvania; for construction permit for new television broadcast station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned applications which are mutually exclusive in that each seeks authority to operate on the same channel, channel 22, in Pittsburgh, Pennsylvania. The applications are mutually exclusive in that operation by both applicants as proposed would result in mutually destructive interference.

2. As amended, the data submitted in the application of Commercial Radio Institute, Inc. hereafter "CRI", shows an estimated cost of construction and one year's operation of $662,207. This estimate may be itemized as follows:

Down payment on equipment	$91,744
13 monthly payments on equipment to Gates and CCA [1]	83,449
15 monthly payments on equipment to RCA and Ravco	41,869
13 monthly interest payments to Gates (at 6 percent)	3,374
15 monthly interest payments to RCA (at 6 percent) and Ravco (at 5½ percent)	7,377
Equipment not covered by manufacturer's letter of credit	33,294
Interest on bank loan at 12.75 percent (3 percent above prime)	38,250
Miscellaneous, including legal and engineering expense, installation and other expense	78,850
Working capital requirement	261,500
Grant fee	22,500
Total	662,207

[1] Payment to CCA includes interest.

3. In addition to the above costs, it appears that CRI may not have made adequate provision in its working capital budget for wages and salaries for employees at the proposed station. CRI states that it plans to hire 24 full-time workers, and 17 part-time employees. The 24 full-time positions include 7 members of the sales staff, who, it appears, will be paid largely, if not entirely, on a commission basis and can be dismissed from consideration for the time being. Operating on the assumption that each two part-time positions are the equivalent of one full-time position, the application thus proposes a total of 25½ full-time equivalent non-sales positions, broken down as follows:

Officials and managers	4
Professionals	2½
Technicians	11½
Office and clerical	7½

4. For wages and salaries, the applicant has provided (for nonsales people) $110,000. CRI, Inc., says this figure is a "direct reflection" of the experience of its subsidiary, Chesapeake Television, Inc., as licensee of WBFF–TV, channel 45, Baltimore, Maryland. Nevertheless, this proposal, providing as it does only $4,313.72 per full-time position, seems inadequate for qualified employees in a major metropolitan area. It seems logical that CRI may have experienced certain economies in its Baltimore operation as a result of its other interests, namely WFMM(FM) and its broadcasting school, which will not be available to it in Pittsburgh. The apparent inadequacy of CRI's estimate for wage and salary expenses is pointed up by the comparable provision of the other applicant, Western Pennsylvania Christian Broadcasting Company, of $101,000 for 14 full-time and two part-time positions, or $6,733 per full-time equivalent position.[2] Therefore, in view of the other financial issues against CRI, an issue will also be specified to determine whether the applicant has accurately estimated its expenses for wages and salaries, and if not, what the expenses will be.

5. To meet its anticipated expenses, CRI relies in part on a $300,000 loan from the Union Trust Company of Maryland. A letter from the bank states that "the loan(s) will be secured by accepta-

[2] Data from the annual financial reports submitted by Pittsburgh television stations KDKA–TV, WIIC–TV, and WTAE–TV also reveals per-person personnel expenses substantially in excess of those proposed by CRI.

ble collateral including corporate assets purchased with $300,000 worth of equity funds provided by Commercial Radio Institute, Inc., prior to the bank advance." These terms pose two particular problems with respect to this application. It is unclear how CRI intends to satisfy the requirement of a security agreement on equipment purchased on an installment basis from the manufacturer. Second, because of the uncertain status of the other integral element of CRI's financing plan (see discussion below), it is also not clear whether CRI will be able to make a $300,000 investment in corporate assets.

6. Another condition of the proposed bank loan is that it be guaranteed by the principal officers of CRI and their wives. CRI has submitted the statements of its president, Julian S. Smith, and his wife, and its vice president and secretary-treasurer, Frederick H. Himes (a bachelor), signifying their willingness to guarantee the loan. However, the application discloses another vice president of CRI, William R. Hoos. The Commission does not know whether the bank requires the guarantees of Hoos and his spouse, or whether the guarantees are available. For all of these reasons, therefore, an issue will be specified to inquire into the availability of the bank loan.

7. The second major element in CRI's financial plan is the pending sale of its Baltimore FM station, WFMM, to Nationwide Communications, Inc., for "approximately" one million dollars, $750,000 of which will be a cash payment at closing. After the broker's commission and capital gain taxes, CRI expects to realize approximately $815,000 from the transaction. The applicant has included $725,000 from the sale in its financial plan for the Pittsburgh operation, but the Board of Directors of CRI has agreed to make available from the sale whatever sums are necessary to construct and operate the new station.

8. Nevertheless, the sale contract is necessarily conditional, subject to Commission approval of the assignment application. Until such approval is given, it cannot be "assumed" that funds from the sale will be available. Therefore, an issue will be specified to inquire into the availability of funds to CRI from the sale of WFMM(FM).

9. No certification has been received from the Federal Aviation Administration that the proposal of Western Pennsylvania Christian Broadcasting Company, would not, if granted, constitute a hazard to air navigation. Therefore, an appropriate issue will be specified and the FAA made a party to this proceeding.

10. With the exception of the matters discussed above, both applicants are otherwise qualified to construct, own and operate a new television broadcast station. Because the applications are mutually exclusive, the Commission is of the opinion they must be designated for hearing in a consolidated proceeding on the issues set forth below.

Therefore, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of Commercial Radio Institute, Inc., and Western Pennsylvania Christian Broadcasting Company, are designated for hearing in a consolidated proceeding, at a time and place to be specified, upon the following issues:

(1) To determine, with respect to the application of Commercial Radio Institute, Inc.:

(a) Whether the applicant has accurately estimated wage and salary expenses during the first year of operation.

(b) In light of the evidence on the above issue, the estimated cost of constructing and operating the station for one year.

(c) Whether funds from a bank loan by Union Trust Company of Maryland will be available to the applicant.

(d) Whether funds from the proposal sale of station WFMM(FM), Baltimore, Maryland, to Nationwide Communications, Inc., will be available to the applicant.

(e) In the light of the evidence on the above issues (a), (b), (c), and (d), whether the applicant is financially qualified to construct and operate the proposed station for one year without revenues.

(2) To determine, with respect to the application of Western Pennsylvania Christian Broadcasting Company, whether its transmitter site and antenna height, as proposed, would constitute a hazard to air navigation.

(3) To determine, on a comparative basis, which of the above-captioned applications, if granted, would better serve the public interest.

(4) To determine, in the light of the evidence on issues (1), (2), and (3) above, which of the applications should be granted.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That, the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

It is further ordered, That, the Federal Aviation Administration is made a party to this proceeding.

It is further ordered, That, pursuant to the United States-Canada Television Agreement, the grant of either of the above applications shall be conditioned upon approval by the Office of Telecommunications of the Canadian Government.

Adopted: February 13, 1974.

Released: February 15, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-4349 Filed 2-22-74;8:45 am]

FEDERAL ENERGY OFFICE

EMERGENCY ADVISORY COMMITTEE FOR NATURAL GAS SUBCOMMITTEE ON LP-GAS SUPPLY AND DEMAND

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given that the Transportation and Storage Task Group of the Subcommittee on LP-Gas Supply and Demand of the Emergency Advisory Committee for Natural Gas will hold its first meeting at 9:30 a.m. on Wednesday, February 27, 1974, in the Oil Center Building, 1437 South Boulder Avenue, Tulsa, Oklahoma.

The group was established to provide the Administrator, FEO, with direct and timely access to the technical knowledge possessed by a range of highly qualified businessmen engaged in the movement and distribution of LP-Gas supplies.

The agenda for the meeting is as follows:

1. General purpose and objectives of the Group
2. Pipeline distribution networks and their capability to deliver domestic as well as imported LP-Gas.
3. Tank cars and tank trucks—availability and future requirements
4. Shipping requirements for handling imports—terminal facilities—adequacy and future needs
5. Storage requirements—above and below ground—reporting requirements
6. Other business

This meeting is open to the public, however, space and facilities are limited.

The Chairman of the group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business.

Further information concerning this meeting may be obtained from Lucio D'Andrea, Office of Policy, Planning, and Regulation, Federal Energy Office, Washington, D.C. 20508, Area Code 202/634-6092. Minutes of the meeting will be made available for public inspection at the Federal Energy Office, Washington, D.C.

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

WILLIAM N. WALKER,
General Counsel.

[FR Doc. 74-4548 Filed 2-22-74;12:08 pm]

PETROLEUM INDUSTRY ADVISORY COMMITTEE

Notice of Meeting

Notice is hereby given in accordance with Pub. L. 92-463, that there will be a meeting of the Petroleum Industry Advisory Committee (Crude Producers; Refiners). The Committee is composed of representatives of major oil producers, refiners from all areas of the United States. The meeting will be held in Washington, D.C., in the Main Interior Auditorium, 18th and C Streets NW., from 2:00 p.m. to 4:00 p.m. on Thursday, February 28, 1974.

The purpose of the meeting is to hear views and questions of the industry sector on compliance to the Mandatory Fuel

Allocation Regulations. The agenda is as follows:

I. Problems in implementation.
II. Recommended remedies to problems in implementation.
III. Data Reporting.
IV. Problems in compliance.
V. Recommended remedies to problems in compliance.

The meeting is open to the public. Further information may be obtained from Mr. Dell V. Perry, Assistant Director, Office of Oil and Gas, U.S. Department of the Interior, Washington, D.C., telephone: (202) 343-6951. A transcript of the meeting will be made.

Dated February 22, 1974.

WILLIAM N. WALKER,
General Counsel.

[FR Doc.74-4547 Filed 2-22-74;12:08 pm]

RETAIL DEALERS GROUP

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given that the Retail Dealers Group, established under the authority of section 212(f) of Economic Stabilization Act, as amended; Executive Order 11748; section 4(a)(iv) of Executive Order 11695, and Cost of Living Council Order No. 47, will meet on Monday, February 25, 1974, at 10:00 a.m. in the Cost of Living Council Auditorium, 2nd floor, 2000 M Street NW., Washington, D.C.

The Group was established to advise the Administrator, FEO, with direct and timely access to the technical knowledge possessed by a wide range of highly qualified independent businessmen engaged in the retail sale of gasoline and diesel fuel. The agenda for the meeting is as follows:

I. OLD BUSINESS

A. Member Reports and Recommendations.
1. Pricing Adjustments.
2. Reduced Allocation.
3. Preferential Treatment; Minimal/maximum sales.
4. Hours of Operation.

II. NEW BUSINESS

A. Discussion of rules and regulations.

The meeting is open to the public; however, space and facilities are limited.

The Chairman of the Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business.

Further information concerning this meeting may be obtained from Dino G. Pappas, Office of Policy, Planning and Regulations, Federal Energy Office, Washington, D.C. 20508, Area Code 202-254-7696. Minutes of the meeting will be made available for public inspection at the Federal Energy Office, Washington, D.C.

Issued in Washington, D.C., on February 21, 1974.

WILLIAM N. WALKER,
General Counsel.

[FR Doc.74-4546 Filed 2-22-74;12:08 pm]

FEDERAL MARITIME COMMISSION

GULF FLORIDA TERMINAL CO. AND ELLER & CO., INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 18, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement filed by:

Arthur E. Erb, President
Eller & Company, Inc.
701 S.E. 24th Street
Fort Lauderdale, Florida 33316

Agreement No. T-2886, between Gulf Florida Terminal Company (Gulf) and Eller and Company, Inc. (Eller), provides for the 13-month lease (with renewal options for two additional 24-month terms) to Eller of certain marine terminal property at the Port of Tampa, Florida, for use as an ocean terminal facility. In addition, Eller is granted the right of first refusal on space in Gulf's cold storage facility. As compensation, Eller will pay Gulf a fixed monthly rental. Gulf, with the exception of those operations performed by Maritime Reefer Service, is restricted from engaging in the stevedoring, terminal or ship's agency business in the State of Florida.

By order of the Federal Maritime Commission.

Dated: February 19, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-4352 Filed 2-22-74;8:45 am]

[Docket No. 73-79]

HOUSEHOLD GOODS FORWARDERS ASSOCIATION OF AMERICA, INC. ET AL.

Order To Show Cause

In the matter of Household Goods Forwarders Association of America, Inc. et al. v. American Export Lines, Inc., Sea-Land Service, Inc., United States Lines, Inc.

The Household Goods Forwarders Association of America, Inc. (HHGFAA) has petitioned for an order directing American Export Lines, Inc., Sea-Land Service, Inc. and United States Lines, Inc. to show cause why the Commission should not find their ocean tariff rates applicable to military household goods shipments in steamship-furnished containers, moving between U.S. North Atlantic ports and ports in the Bordeaux/Hamburg range, to be unjustly discriminatory in violation of section 17 of the Shipping Act, 1916, and why the Commission should not order that such unlawful discrimination be promptly removed.

The tariff matter complained of is set forth in the following publications on file with this Commission:

American Export Lines—Tariff FMC No. 95
Sea-Land Service—Tariff FMC No. 48
United States Lines—Tariff FMC No. 38
Military Sealift Command—Tariff covering RFP No. 800.

HHGFAA charges that each of the above-named water carriers hold themselves out to transport military household goods shipments, inter alia, between the U.S. North Atlantic ports and ports in the Bordeaux/Hamburg range, both for the account of the Military Sealift Command and for the account of its individual member NVO's; that the rates assessed its members by American Export Lines is $1,160 per 40-foot steamship container and $580 per 20-foot steamship container. Sea-Land Service assesses member carriers $1,160 for a 40-foot container, $1,037.50 for a 35-foot container; United States Lines charges $1,290.00 for 40-foot containers, $645.00 for 20-foot containers.[1] The rate charged the Military Sealift Command by American Export Lines for transporting identical shipments is $12.48 per 40 cubic foot, or a charge of $1,069.94 for the 40-foot container and $494.04 for the 20-foot container; [1] the rate charged the Military Sealift Command by Sea-Land is $1,010.39 for the 40-foot container and $727.33 for the 35-foot container; [1] and United States Lines' rate assessed the Military Sealift Command is $942.83 for the high cube 40-foot container, a charge of $885.38 for the standard 40-foot container and a charge of $434.89 for the 20-foot container.[1]

HHGFAA contends that although the rates assessed the Military Sealift Command on military households goods shipments in steamship-furnished contain-

[1] Adjusted to reflect bunker surcharges.

ers is the Cargo N.O.S. rate published in the RFP 800 Tariff, rather than a specific commodity rate, this does not justify the assessment of a charge which would otherwise be discriminatory. HHGFAA further contends that the ocean movement performed by the water carriers in connection with the matter complained of is substantially similar, insofar as commodity, value, nature of packing, method of shipment, type of service and points of service are concerned, the only difference being the rates assessed and identity of the person tendering the shipment to the carrier.

It appears that the assessment by the carriers here named of different rates on military household goods shipments in steamship-furnished containers may be unjustly discriminatory in violation of section 17 of the Shipping Act, 1916. It further appears that no substantial dispute of facts exists.

THEREFORE, IT IS ORDERED, That pursuant to sections 17 and 22 of the Shipping Act, 1916 (46 U.S.C. 816 and 821), American Export Lines, Inc., Sea-Land Service, Inc. and United States Lines, Inc. be named as respondents in this proceeding and that each be ordered to show cause why its assessment of rates as between military household goods carried in containers for the Military Sealift Command and similar goods carried for household goods forwarders on through government bills of lading in the same type containers moving between U.S. North Atlantic ports and ports in the Bordeaux/Hamburg range should not be found to be unjustly discriminatory in violation of section 17 of the Shipping Act, 1916, and why said unlawful discrimination should not be promptly removed.

IT IS FURTHER ORDERED, That the Household Goods Forwarders Association of America, Inc., be designated as petitioner herein and that all other persons having an interest in this proceeding and desiring to participate herein should file petitions for leave to intervene in accordance with rule 5(1) of the Commission's rules of practice and procedure (46 C.F.R. 502.72), no later than the close of business March 1, 1974.

IT IS FURTHER ORDERED, That, there appearing to be no material issues of fact in dispute, this proceeding shall be limited to the submission of affidavits of fact and memoranda of law, replies, and oral argument, if deemed necessary by the Commission. Should any party feel that an evidentiary hearing is necessary, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such proof cannot be submitted through affidavit. Requests for hearing should be filed on or before March 15, 1974. Affidavits of fact and memoranda of law shall be filed by the above-named respondent carriers before March 15, 1974; reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel, petitioner herein, and intervenors, if any, no later than the close of business April 4, 1974. Time and Date of oral argument, if requested and/or deemed necessary by the Commission, will be announced at a later date.

IT IS FURTHER ORDERED, That a notice of this order shall be published in the FEDERAL REGISTER and that a copy thereof be served upon petitioner, respondents, and upon the Commanding Officer, Military Sealift Command.

IT IS FURTHER ORDERED, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573 in an original and 15 copies as well as being mailed directly to all parties of record.

AND, IT IS FURTHER ORDERED, That all future notices issued by or on behalf of the Commission in this proceeding shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-4353 Filed 2-22-74;8:45 am]

TRANSOCEAN GATEWAY CORP. AND UNITED STATES LINES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before March 18, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Stuart R. Breidbart
Corporate Counsel
United States Lines, Inc.
One Broadway
New York, New York 10004

Agreement No. T-2902, between Transocean Gateway Corporation (TOG) and United States Lines, Inc. (USL), provides for the assignment to USL of TOG's leasehold interest in the four container cranes currently located at the Howland Hook Terminal, Staten Island, New York. Should the cranes' owner, Pepsico Leasing Corporation not consent to the assignment, TOG will provide USL or the Howland Hook Marine Terminal Corporation (a USL/American Export Lines, Inc. joint venture) full crane services at cost. Compensation to TOG for the assignment of its leasehold interest is ten dollars. Should Pepsico Leasing Corporation desire to sell the cranes to USL, the agreement provides for TOG's consent to such sale.

By Order of the Federal Maritime Commission.

Dated: February 19, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-4351 Filed 2-22-74;8:45 am]

FEDERAL POWER COMMISSION

[Dockets Nos. R-469; etc.]

CONSERVATION OF NATURAL RESOURCES

Order Denying Petition

FEBRUARY 15, 1974.

In the matter of utilization and conservation of natural resources—Natural Gas Act (General Motors Corporation and the Brick Institute of America, Petitioners) United Gas Pipe Line Company, Panhandle Eastern Pipe Line Company, Southern Natural Gas Company, Docket No. RP71-29 and RP71-120, Docket No. RP71-119 Docket No. RP72-74, and RP74-6.

On January 22, 1974, General Motors Corporation and the Brick Institute of America (Petitioners) filed a joint petition requesting the Commission to promulgate on an expedited basis a rule governing the allocation of natural gas supplies by interstate pipeline companies during emergency periods of short supplies of alternate fuels. Specifically, Petitioners request the Commission (1) to issue a notice of proposed rulemaking proposing the adoption of a rule to encompass their proposed emergency natural gas allocation plan and requiring the incorporation of that plan in the tariffs of all jurisdictional pipeline companies; (2) to issue an interim emergency rule requiring all jurisdictional pipeline companies to file interim tariff sheets immediately implementing the emergency allocation plan pending completion of the rulemaking proceeding; and (3) to expedite consideration of this petition and any administrative proceedings in connection with it.[1]

In support of their request, Petitioners assert that the present short fall of alternative fuels has created an emergency situation that requires an immediate im-

[1] Similar petitions were filed in all of the above-captioned proceedings.

plementation of their proposed emergency allocation plan. They assert that the present curtailment policies promulgated by the Commission are not suited to the problem of allocating natural gas supplies during the short-term emergency period and that their plan should be invoked during that emergency period.

The plan proposed by Petitioners presents curtailment concepts which, absent an evidentiary record, do not permit us to ascertain the impact on the systems of the pipelines and of the customers served. However, we take note that Petitioners have stated that their plan has been presented in a number of curtailment proceedings that are presently in hearing and, when concluded, will be before us for determination. We shall therefore deny Petitioners request without prejudice to a determination of said issue at the time it comes before us through the vehicle of an evidentiary record in a pipeline curtailment proceeding. Petitioners are free of course to seek whatever expedited procedures they deem necessary for the compilation of such evidence by submission of appropriate motions to the Presiding Law Judges in the respective proceeding hereinbefore mentioned. In the interim, petitioners may seek relief from curtailment for specific plants under the procedures promulgated by the Commission for emergency or extraordinary relief.

The Commission orders. The petitions filed by Petitioners on January 22, 1974, in Docket Nos. R–469, RP71–29 and RP71–120, RP71–119, RP72–74 and RP74–6 are hereby denied without prejudice.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.74–4311 Filed 2–22–74;8:45 am]

[Docket No. E–7704 etc.]

ELECTRIC AND WATER PLANT BOARD, FRANKFORT, KENTUCKY

Order Consolidating Proceedings for Purposes of Hearing and Decision

FEBRUARY 15, 1974.

In the matter of: the Electric and Water Plant Board of the City of Frankfort, Kentucky v. Kentucky Utiliites Co., Public Service Co. of Indiana, Indianapolis Power and Light Co., Kentucky Utilities Co.

The Electric and Water Plant Board of the City of Frankfort, Kentucky (hereafter Frankfort), complainant in Docket No. E–7704 and intervenor in Docket Nos. E–7669, E–7937 and E–8053, filed a motion with the Federal Power Commission requesting an order consolidating the proceedings in Docket No. E–7704 with those in the previously consolidated Docket Nos. E–7669, et al.

The proceedings in Docket Nos. E–7669, E–7937 and E–8053 involve Frankfort's challenge to the legality of several provisions of the Kentucky-Indiana Pool Planning and Operating Agreement (hereafter KIP Pool). The KIP Pool Agreement was initially filed with the Commission on August 2, 1971 in Docket No. E–7669. Frankfort sought and was granted intervention in that Docket and each successive filing which dealt with the KIP Pool Agreement.[1] In these proceedings Frankfort has alleged

> that the KIP Pool contains unlawfully restrictive provisions which operate to prevent Frankfort from doing business on a bulk power supply basis with any KIP Pool member, and that these restrictions are part of a broad interstate scheme to prevent Frankfort and others similarly situated from providing for their own bulk power supply through joint ventures, interconnections and coordination with other utilities, and to disable consumer-owned systems in Kentucky and Indiana from expanding bulk power supply operations in competition with the investor-owned members of the KIP Pool.

See Motion of Frankfort, Kentucky to Consolidate Proceedings, filed November 20, 1973 in Docket No. E–7704, pg. 3. On July 31, 1973, the Commission ordered that Frankfort's allegations in each case dealing with the KIP Pool Agreement should be treated as complaints under section 306 of the Federal Power Act (16 U.S.C. 825e) and consolidated these three filings for hearing and decision for the stated reason that the antitrust allegations of Frankfort in each case present common issues of law and fact.

On the other hand, Docket No. E–7704 is a complaint proceeding which arose out of Frankfort's protest in Docket No. E–7677, involving an application of Kentucky Utilities Company (hereafter KU), a party to the proceedings in the consolidated Docket Nos. E–7669 et al., for authority to issue short-term promissory notes under section 204 of the Federal Power Act. In pleadings filed in that complaint proceeding, Frankfort has again alleged that KU has been and continues to engage in activities violative of the antitrust laws and of the Federal Power Act. Specifically, Frankfort alleges

> that KU, by its own action and by concert of action, agreement and understanding, has unlawfully prevented Frankfort from qualifying for and becoming a member of the Kentucky-Indiana Pool . . . and from doing business as an electric utility with KIP Pool participants and "non-participants" other than KU, and from doing business with KU on any basis other than as a full-requirements customer. (emphasis added).

See Motion of Frankfort, Kentucky, supra, at pg. 2. It is clear that Frankfort has not limited its antitrust allegations to KU in Docket No. E–7704; rather Frankfort charges that the capital to be derived from KU's proposed security issuance would be used to further anticompetitive conduct by several persons affiliated with KU under the KIP Pool Agreement and other arrangements.

It is significant that the Commission has chosen to address the allegations made by Frankfort as complaints under section 306 of the Act. In both the consolidated Dockets (E–7669, et al.) and Docket No. E–7704 consideration of the anticompetitive allegations under section 306 of the Act will facilitate a complete and comprehensive investigation of the corporate and competitive conditions which prevail in the service areas of the utilities involved in the instant proceedings before the Commission. It is the Commission's opinion that treating the allegations under section 306 of the Act frees the Commission Staff and the Presiding Officer in each of the Dockets proposed to be consolidated to cipher a total overview of the impact that the KIP Pool Agreement and the KU security authorization respectively would have upon the complainant, Frankfort. Under Section 306 the Commission is under the "duty . . . to investigate the matters complained of in such manner and by such means as it shall find proper." See Federal Power Act § 306, (16 U.S.C. 825e). Section 306 clearly grants far ranging discretion to the Commission in determining the methods and means which it shall employ to accomplish its duty to investigate matters constituting a complaint. Consolidated consideration is surely one appropriate method of investigating various complaints especially where the matters complained of are general patterns of behavior exhibited by a group of utilities and which are alleged to arise from a single proposed transaction and its consequences.

Section 306 of the Act, however, grants only procedural authority to facilitate investigation of complaints. There are no substantive standards incorporated into section 306; therefore, to evaluate the findings of an investigation under section 306 the Commission must necessarily refer to the standards provided under the definitive regulatory provisions of the Federal Power Act (e.g., section 204 in the case of Docket No. E–7704 and Section 202 in the case of Docket Nos. E–7669, et al.). Under this analysis, then, the propriety of consolidated consideration of the complaints made by Frankfort in these cases is supported further by reference to Gulf States Utilities Co. v. FPC, 411 U.S. 747 (1973). In that case the Supreme Court emphasized the scope of the public interest standard under all regulatory provisions of the Federal Power Act. Evaluation of the anticompetitive allegations of Frankfort in light of the general public interest standard incorporated in the Act is the ultimate goal mandated by Gulf States and the general standard is not more restrictive under any substantively regulatory provision than another.

> [T]he Commission's broad authority to consider anticompetitive and other conduct touching the "public interest" under the other sections of the Act emphasizes the breadth of its authority under the public in-

[1] Docket Nos. E–7937 and E–8053 represent amendments to the KIP Pool Agreement which were filed with the Commission and noticed according to the Commission's Regulations. Frankfort intervened in each making essentially the same allegations in all.

terest standard generally and as embodied in [specific provisions].

411 U.S. at 758. Therefore, applying the substantive public interest standard of section 204 (in the case of Docket No. E–7704) and of section 202 (in the case of Docket Nos. E–7669, et al.) to the findings of an investigation of Frankfort's allegations under section 306 of the Act will provide for a more comprehensive appraisal of the competitive impact of the Commission's proposed authorizations.

Section 1.20(b) of the Commission's rules of practice and procedure, 18 CFR § 1.02(b), governs consolidation for purposes of hearing and decision. Section 1.20(b) states that the Commission may upon its own motion or that of a party or staff counsel, "order proceedings involving a common question of law or fact to be consolidated for hearing of any or all the matters in issue in such proceedings." It is significant that § 1.02(b) does not employ the identity of parties in various proceedings as a limiting consideration in consolidation. It is clear from Frankfort's pleadings in each docket that it proposes to consolidate for hearing and decision that there are common questions of law and fact regarding the anticompetitive behavior of each, and every, Respondent herein. Whether the issues raised in Docket No. E–7704 go beyond those raised in the other Dockets (E–7669, et al.) is irrelevant to the question of whether consolidation of the various Dockets is appropriate and in the public interest. Identical issues are not a prerequisite to consolidation; only a common question of law or fact is necessary to legitimize consolidation under the Commission's rules.

Furthermore, the fact that all respondents are not involved in the issuance of a security under section 204 of the Act is irrelevant. Because the anticompetitive impact of various configurations of corporate behavior either individually or in concert, would come within the purview of the Commission under the general public interest standard, a multiplicity of parties will not cloud the resolution of the allegations made by Frankfort against each and all of the parties. Consolidation of these proceedings will not prejudice any party to any of the pending dockets.

The Commission in the exercise of its discretion must take into account the limited resources at its disposal and be vigilant to opportune situations which might allow consolidated consideration of common issues between the same parties or those with substantially similar portions. We feel that the prerequisites for such consideration are presented in the instant case. Therefore, in the interest of expediting the current proceedings in the various dockets pending before us, we believe that a unitary consideration of the antitrust allegations of Frankfort, discussed herein, would be appropriate and in the public interest.

We are aware that the parties in each of the proceedings herein consolidated may have additional testimony or evidence that would be material and relevant to the issues to be considered in the consolidated hearing. Therefore, the submittal dates for filing of initial direct testimony will be rescheduled, as indicated below.

The Commission finds:

(1) The proceedings in Docket No. E–7704 and those in Docket Nos. E–7669, E–7937 and E–8053 present common issues of law and fact.

(2) It is appropriate and in the public interest that Docket No. E–7704 be consolidated for purposes of hearing and decision with the previously consolidated proceedings in Docket Nos. E–7669, E–7937 and E–8053.

The Commission orders:

(A) All matters in issue in Docket No. E–7704 will be heard and decided in conjunction with those issues and matters for decision presented in Docket Nos. E–7669, E–7937 and E–8053.

(B) Testimony in regard to this consolidated proceeding shall be submitted as follows: Testimony of all parties shall be filed on or before March 12, 1974. All other procedural dates previously established in the Dockets hereby consolidated shall be reset by order of the Presiding Administrative Law Judge.

By the Commission.

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

[FR Doc.74–4307 Filed 2–22–74;8:45 am]

[Docket No. RP72–6]

EL PASO NATURAL GAS CO.

Order Vacating Order in Part

FEBRUARY 19, 1974.

On January 4, 1974, the Community Public Service Company (Community) of Fort Worth, Texas, filed a petition for extraordinary relief from the impact of the interim curtailment plan in effect on the Southern Division system of El Paso Natural Gas Company (El Paso) in Docket No. RP72–6. Community requested exemption from curtailment for its electric generating plant at Lordsburg, New Mexico.

On January 15, 1974, the Commission granted temporary emergency relief pending formal hearing solely to the extent necessary to avoid the shedding of firm electric load.

On January 18, 1974, General Motors Corporation (General Motors) filed a protest of Community's petition for extraordinary relief and a petition to intervene in the above docketed proceeding. General Motors protested Community's petition pending a showing by Community that service to its residential and commercial customers cannot be curtailed. General Motors further claimed that Community should be required to establish the effects upon such customers of reduction in firm electric service.

On January 18, 1974, Community telegraphed a motion to vacate the hearing set by the Commission's order of January 15, 1974. Additionally, on January 28, 1974, Community filed a supplemental motion to vacate said hearing. In support of its motions, Community alleges that further relief is not anticipated and that, therefore, a hearing is unnecessary. Community further states that it will make appropriate arrangements with El Paso to reduce Community's usage in order to offset the volumes of gas used during the emergency of January 3, 4, and 5 and will report such arrangements to the Commission. Community finally states that it has been authorized by General Motors to state that General Motors does not object to the vacating of the hearing on the condition that Community return the gas used during the emergency through a reduction in deliveries.

In view of the fact that further relief will not be necessary and that the relief granted under our temporary authorization of January 15, 1974, has been terminated, we believe that the motion to vacate the order to the extent it provides for a hearing is necessary and proper in the public interest.

The Commission finds:

(1) It is desirable and in the public interest that the order providing for a hearing in this matter issued January 15, 1974, be vacated.

The Commission orders:

(A) The order of January 15, 1974, to the extent it provided for a hearing in this matter is hereby vacated.

(B) Community will reduce its deliveries of natural gas from El Paso's system for use at Community's Lordsburg facilities in the amount of the volumes used during the emergency of January 3, 4, and 5, within 90 days of this order.

By the Commission.

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

[FR Doc.74–4313 Filed 2–22–74;8:45 am]

[Docket No. C174–341]

FOREST OIL CORP.

Order Granting Interventions, Setting Hearing Date and Prescribing Procedure

FEBRUARY 19, 1974.

On December 6, 1973, Forest Oil Corporation (Forest) filed in Docket No. C174–341 an application requesting issuance of a limited term certificate of public convenience and necessity with pre-granted abandonment authority, pursuant to section 7(c) of the Natural Gas Act and the Commission's Regulations thereunder, for the sale of gas to Columbia Gas Transmission Corporation (Columbia Gas) from Blocks 256 and 267, Vermilion Area, Offshore Louisiana (Federal Domain).

Specifically, Forest proposes to sell to Columbia Gas approximately 186,000 Mcf of gas per month at 45 cents per Mcf. The term of the contract is for one year. The proposed price of 45 cents per Mcf is in excess of the area base rate of 26 cents per Mcf established by Commission Opinion No. 598.

Forest commenced an emergency sale to Columbia Gas from the subject acreage on November 2, 1973, pursuant

to Order Nos. 491 and 491–B at a rate of 45 cents.

The Public Service Commission of the State of New York (PSCNY) filed a notice of intervention in the above-referenced docket on January 14, 1974. PSC NY requests a formal hearing on the matter stating that no showing has been or can be made justifying a short-term sale for one year at 45 cents from offshore Federal Domain area subject to the Commission's plenary authority. PSCNY further states that since there is no possibility of the gas being diverted to the intrastate market if the sale is not certificated as sought, there is no justification for certification at the proposed price. Columbia Gas filed a late petition to intervene in support of Forest's application on January 17, 1974.

The application in this proceeding represents a sizeable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers, nevertheless, it is necessary that this application be set for public hearing to decide the issues raised herein. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of a limited-term certificate on the terms proposed in that application.

We take further note, however, that the Commission in a number of recent orders has already held that an emergency exists on Columbia Gas' system. See Forest Oil Corporation, ____ FPC ____, Docket No. CI73–489 et al., issued March 23, 1973. We, therefore, conclude that there is an emergency on Columbia Gas' system which could warrant the issuance of a certificate if the price conforms to the public convenience and necessity.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth below.

(2) The intervention of PSCNY and Columbia Gas in this proceeding may be in the public interest.

The Commission orders:

(A) The above-named parties are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of said intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and *provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved by any order or orders entered in this proceeding.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing shall be held on March 27, 1974, at 10:00 a.m. (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the issue of whether a certificate of public convenience and necessity should be granted as requested by the applicant.

(C) On or before March 13, 1974, Forest and any supporting party shall file with the Commission and serve upon all parties, including Commission Staff, their testimony and exhibits in support of their position.

(D) An Administrative Law Judge to be designated by the Chief Administrative Law Judge—see delegation of authority, 18 CFR 3.5(d)—shall preside at, and control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure in this order.

By the Commission.

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

[FR Doc.74–4309 Filed 2–22–74;8:45 am]

[Dockets Nos. CI74–262 and CI74–263]

HONDO PRODUCTION CO. AND SAN ORA PRODUCTION CO.

Order Consolidating Proceedings, Granting Interventions and Denying Applications

FEBRUARY 19, 1974.

On August 18, 1973, Hondo Production Company (Hondo) and San Ora Production Company (San Ora) filed applications requesting authorization to abandon their sales[1] of gas made to Kerr-McGee Corporation (Kerr-McGee) from wells situated on the Barnard Lease in the Panhandle Field, Carson County, Texas R.R. District No. 10 (Hugoton-Anadarko Area), under percentage-type contracts dated August 1 and October 10, 1961, respectively. Kerr-McGee gathers the gas, processes it in their Pampa Plant, and resells the residue gas to Northern Natural Gas Company (Northern)[2] at the applicable area rate plus an allowance for off-lease gathering. Hondo and San Ora are presently receiving 18.0 cents per Mcf[3] for the gas delivered to Kerr-McGee.

On August 1, 1973, Hondo and San Ora advised Kerr-McGee of their intentions to terminate their sales contracts pursuant to the provisions thereof,[4] in order that they may sell the subject gas to Natural Gas Pipeline Company of America (Natural).

On November 23, 1973, Northern filed petitions to intervene in opposition to the proposed abandonments. In support of its petitions to intervene in opposition, Northern states that it has an existing gas supply emergency on its system and that its gas supply deficiency is intensifying. Northern adds that its ability to meet its market requirements is predicated upon maximizing pipeline operations from all sources, including underground storage, and that it presently has no excess deliverability on its system, with the real possibility existing that contract demand requirements cannot be met under sustained peak conditions. Thus, Northern contends that any reduction in available gas by reason of abandonment, as in the instant proceedings, will aggravate an already existing emergency.

On November 26, 1973, Kerr-McGee filed petitions to intervene in opposition to the proposed abandonments. In its petitions, Kerr-McGee states that the granting of the subject applications will cause an immediate loss to the Pampa Plant of 1,154 Mcf per day[5] resulting in a substantial reduction in its economic life. Kerr-McGee adds that such loss would impair the economic viability of the plant, causing its premature shutdown, and that premature closing of the plant and its gathering system, together with the resulting discontinuance of service to some 229 producing wells, would manifestly disserve the public interest.

For the above stated reasons, Northern requests, in its petition, that the Commission either deny the applications of both Hondo and San Ora outright, or, absent outright denial, that the matter be set for hearing. Kerr-McGee requests formal hearing on the subject applications.

Neither Hondo nor San Ora state any reason for abandonment except that they intend to sell the subject gas to Natural and have been negotiating to that effect. Kerr-McGee alleges in its petition that Hondo and San Ora have advised Kerr-McGee that, if granted abandonment authorization, they will sell the gas to Natural for 55 cents per Mcf.

In view of the fact that neither Hondo nor San Ora have come forth with pleadings setting forth grounds for the granting of abandonments under the statutory requirements of section 7(b) of

[1] Hondo and San Ora have small producer certificates in Docket Nos. CS73–106 and CS73–107, respectively.

[2] Kerr-McGee's sale, authorized in Docket No. G–2758, commenced pursuant to a contract dated April 15, 1954, and currently is subject to contract dated March 21, 1973, which contracts are on file as part of Kerr-McGee Corporation (Operator) FPC Gas Rate Schedule No. 2.

[3] This 18 cents is 75 percent of Kerr-McGee's resale price of 21.5 cents plus 2.5 cents gathering allowance. Kerr-McGee also receives a slight upward Btu adjustment, 0.215 cents (1010 Btu gas).

[4] Pursuant to amendments dated December 7, 1964, the contracts were to be effective until August 1, 1966, and for a period of 5 years after said date and from year to year thereafter until cancelled by either party thereafter.

[5] This constitutes approximately 13 percent of the Pampa Plant supply dedicated to Northern by Kerr-McGee.

the Natural Gas Act we shall deny the instant applications.

The Commission finds:

(1) Docket Nos. CI74-262 and CI74-263 should be consolidated for hearing and decision as they involve common questions of law and fact.

(2) The interventions of Northern and Kerr-McGee in this proceeding may be in the public interest.

(3) Good cause exists to deny both Hondo's and San Ora's applications for abandonment under section 7(b) of the Natural Gas Act.

The Commission orders:

(A) The applications listed at the head of this order are hereby consolidated for hearing and decision.

(B) Northern and Kerr-McGee are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of said intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions to intervene; *And provided, further,* That the admissions of said intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders of the Commission entered in this proceeding.

(C) For the reasons hereinbefore stated, the applications of Hondo and San Ora are hereby denied.

By the Commission.

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

[FR Doc.74-4308 Filed 2-22-74;8:45 am]

[Docket No. E-8494]

MINNESOTA POWER AND LIGHT CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Permitting Intervention and Establishing Procedures

FEBRUARY 15, 1974.

On November 16, 1973, Minnesota Power and Light Company (MP&L) tendered for filing proposed changes in its rates and charges to twenty-one wholesale customers.[1] The proposed changes would increase annual revenues from jurisdictional sales by $3,607,683 based on the twelve-month period ending January 15, 1974. MP&L also tendered a contract for wholesale service to Superior Water Light and Power Company (SWL&P), superseding the present MP&L Rate Schedule FPC No. 7. MP&L requested an effective date of January 15, 1974, for its filings.

By letter dated December 6, 1973, the Secretary of the Commission informed MP&L that its initial filing was deficient with respect to § 35.13(b)(4)(iii) of the Commission's regulations and that no filing date could be assigned until the necessary material was supplied. The data in completion of the filing was submitted by MP&L on January 18, 1974. At the same time, MP&L requested waiver of the notice requirements of the Commission's regulations, so that November 16, 1974, the date of the original tender might be assigned as the filing date.

In support of the proposed rate increase MP&L states the proposed rates are designed and necessary to improve the rate of return earned from its wholesale customers. MP&L also states that its contract with the Itasca-Mantrap Electric Co-operative limits any rate increase to 15 percent of the existing rate. Therefore, as to this customer MP&L does not propose to effectuate the entire rate increase, but only that amount equivalent to a 15 percent increase.

Notice of the initial tender was issued on November 30, 1973, providing for all comments and petitions to intervene to be filed on or before December 20, 1973.

The Village of Proctor filed a protest to the proposed rates on December 19, 1973. The Public Service Commission of Wisconsin filed a Notice of Intervention. On December 21, 1973, the Village of Aitkin, et al.,[2] (Petitioners) filed an untimely protest and petition to intervene.

Petitioners claim the filing should be rejected since, as evidenced by the Secretary's letter of December 6, 1973, it does not conform to the Commission's regulations. In the alternative, Petitioners request suspension of the rate increase for the full five month term because of the size of the increase and the possibility of restrictive clauses in the proposed terms and conditions of service.

As indicated above, MP&L has cured the deficiency in its filing and therefore grounds for its rejection no longer exist. Our review of MP&L's filing and the issues raised therein indicates that the proposed changes have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, we shall suspend the proposed changes for the full statutory period and establish hearing procedures to determine the justness and reasonableness of MP&L's filing.

As to MP&L's request for waiver of the notice requirements of the Commission's regulations, we believe good cause exists to assign January 18, 1974, the date MP&L cured the deficiency in its original tender, as the filing date for MP&L's proposed changes.

The Commission finds:

(1) The proposed changes in rates and charges, tendered by MP&L on November 16, 1973, should be accepted for filing as of January 18, 1974, as hereinafter ordered.

(2) The proposed change in rates and charges may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful under section 205 of the Federal Power Act and should be suspended for the full statutory term.

(3) Good cause exists to permit the intervention of the above-named intervenors.

(4) Good cause does not exist to grant waiver of § 35.13 of the Commission's regulations.

(5) The motion to reject the filing should be denied for the reasons stated above.

The Commission orders:

(A) Pending a hearing and a decision thereon, MP&L's proposed changes in its rates and charges, tendered on November 16, 1974, are accepted for filing as of January 18, 1974, and suspended for the full statutory term, the use thereof deferred until July 18, 1974, or until such time as they are made effective in the manner provided in the Federal Power Act.

(B) Pursuant to authority of the Federal Power Act, particularly sections 205 and 206 of the Commission's rules and regulations (18 CFR, Chapter I), a prehearing conference shall be held pursuant to § 1.18 of the Commission's rules of practice and procedure on July 9, 1974, at 10:00 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. A hearing for purposes of cross-examination concerning the lawfulness and reasonableness of the rates and charges in company's FPC Rate Schedule, as proposed to be amended herein shall be held commencing on July 16, 1974.

(C) On or before May 31, 1974, the Commission Staff shall serve its prepared testimony and exhibits. Any intervenor evidence will be filed on or before June 14, 1974. Any rebuttal evidence by company shall be served on or before June 25, 1974.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(E) The parties designated above and in Appendix B are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in the respective petitions to intervene; *And provided, further,* That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(F) MP&L's motion for waiver of the notice requirements of § 35.13 of the Commission's regulations is denied.

(G) Petitioner's motion to reject the filing is denied.

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

By the Commission.

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

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[1] See Appendix A.

[2] See Appendix B.

APPENDIX A

Rate Schedule No. 90—applicable to full requirements municipal customers and privately owned wholesale customers.

Rate Schedule No. 90 with a rider—applicable to partial requirements municipal customers.

Rate Schedule No. 91—applicable to rural electric cooperative customers.

APPENDIX B

City of Binabik.
City of Brainerd.
Village of Buhl.
City of Ely.
City of Gilbert.
Village of Grand Rapids.
Village of Hibbing.
Village of Keewatin.
Village of McKinley.
Village of Mountain Iron.
Village of Naskwauk.
Village of Pierz.
Village of Proctor.
City of Staples.
City of Two Harbors.
City of Virginia.
Stuntz Cooperative Light & Power Association.

[FR Doc.74-4306 Filed 2-22-74;8:45 am]

[Docket No. E-8547]

MISSOURI EDISON CO.

Order Suspending Proposed Changes in Rates and Setting Matter for Hearing

FEBRUARY 15, 1974.

On December 12, 1973, Missouri Edison Company (Edison) tendered for filing a proposed rate increase for the City of Clarksville (City), its only wholesale customer.[1] Edison states that the amount of the increase over the presently effective rate is $3,337 (5.09 percent) for the 12-month period ending September 30, 1973. The filing was completed by receipt of requested information on January 18, 1974, which date has been assigned the filing date in this proceeding. Edison proposed an effective date of December 14, 1973.

The present agreement between Edison and City provides for all-requirement service at two 2.4 KV substations. For billing purposes, Edison combines the KW amounts and the KWh usage at both substations. The terms and conditions of the present agreement would remain the same under the proposed rate except for the elimination of a tax adjustment clause. The proposed agreement is for a term of 10 years after the date of approval of the contract.

The proposed increase was notice on February 1, 1974, with protests and petitions to intervene due on or before February 15, 1974. No petitions or protests have been filed.

Our review of the filing indicates that the proposed rate may result in excess revenues and that the proposed increases have not been shown to be just and reasonable and may be unjust, unreasonable or otherwise discriminatory or preferential or otherwise unlawful. We shall therefore, set the matter for hearing, and order that the rates be suspended for one day.

The Commission finds. (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Edison's revised rate schedule proposed in this docket, and that the tendered rate schedule be suspended as hereinafter provided.

(2) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

The Commission orders. (A) Pursuant to the authority of the Federal Power Act, particularly section 205(e) thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 CFR Chapter 1), a prehearing conference shall be held pursuant to § 1.18 of the Commission's rules of practice and procedure on June 25, 1974, at 10:00 A.M., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. A hearing for purposes of cross-examination concerning the lawfulness and reasonableness of the rates and charges in Edison's FPC Rate Schedule, as proposed to be amended herein shall be held commencing on July 16, 1974.

(B) On or before May 14, 1974, the Commission Staff shall serve its prepared testimony and exhibits. Any rebuttal evidence by Edison shall be served on or before June 4, 1974.

(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, shall prescribe procedural matters not herein provided, and shall control the proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure.

(D) Pending hearing and final decision in this proceeding, Edison's revised rate schedule tendered on January 18, 1974, is hereby suspended and the use thereof deferred until February 19, 1974.

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

By the Commission.

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

[FR Doc.74-4339 Filed 2-22-74;8:45 am]

[1] Proposed rate schedule designation: Missouri Edison Company Rate Schedule FPC No. 2 (Supersedes Rate Schedule FPC No. 1).

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY

Agenda and Notice of Meeting

Meeting to be held at the Federal Power Commission Offices, 825 North Capitol Street, NE., Washington, D.C., 9:30 a.m., February 27, 1974, Room 5200.

1. Meeting called to order by FPC Staff Representative.
2. Objectives and purposes of meeting.
A. Review of the following sections of the Chairman's draft of the final report:
a. Section II.
b. Section IV-G.
c. Section V.
B. Review Recommendations.
C. New Business.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-4312 Filed 2-22-74;8:45 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FINANCE AND ITS TASK FORCE ON FUTURE FINANCIAL REQUIREMENTS

Order Designating Additional Coordinating Representative

FEBRUARY 19, 1974.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committees, and by order issued December 7, 1972, established the Technical Advisory Committee on Finance Task Force on Future Financial Requirements.

2. Coordinating Representative. An additional coordinating representative to the Technical Advisory Committee on Finance and the Task Force on Future Financial Requirements, as selected by the Chairman of the Commission, with the approval of the Commission, is as follows:

Robert G. Uhler, Acting Chief, Division of Economic Studies, Federal Power Commission.

Mr. Uhler replaces Dr. John W. Wilson.

By the Commission.

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

[FR Doc.74-4314 Filed 2-22-74;8:45 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON POWER SUPPLY

Order Designating Additional Member

FEBRUARY 19, 1974.

The Federal Power Commission, by order issued September 28, 1972, established the Technical Advisory Committee on Power Supply.

2. *Membership.* An additional member of the Technical Advisory Committee on Power Supply, as selected by the Chairman of the Commission, with the approval of the Commission, is as follows:

C. King Mallory, III, Deputy Assistant Secretary—Energy and Minerals, Department of the Interior.

Mr. Mallory replaces Mr. James R. Smith.

By the Commission.

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

[FR Doc.74-4316 Filed 2-22-74;8:45 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON POWER SUPPLY AND THE TASK FORCE ON FORECAST REVIEW

Order Designating Additional Member

FEBRUARY 19, 1974.

The Federal Power Commission, by orders issued September 28, 1972, and December 19, 1972, established the Technical Advisory Committee on Power Supply and the Technical Advisory Committee on Power Supply Task Force—Forecast Review.

2. *Membership.* An additional member of the Technical Advisory Committee on Power Supply and the Task Force, as selected by the Chairman of the Commission, with the approval of the Commission, is as follows:

James R. Burdeshaw, Director, Power Marketing, Tennessee Valley Authority.

Mr. Burdeshaw replaces Mr. Paul S. Button.

By the Commission.

(SEAL) KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-4315 Filed 2-22-74;8:45 am]

[Docket No. E-8242]

PUBLIC SERVICE COMPANY OF OKLAHOMA

Notice of Further Extension of Time and Postponement of Prehearing Conference and Hearing

FEBRUARY 14, 1974.

On January 28, 1974, a motion was filed by Staff Counsel to further extend the procedural dates fixed by notice issued January 23, 1974. The motion states that all parties except the Oklahoma Consumer Protection Agency had been contacted and had no objection to the motion.

Upon consideration notice is hereby given that the procedural dates are further modified as follows:

Service of Evidence by Staff, March 8, 1974.
Service of Evidence by Intervenors, March 26, 1974.
Service of Rebuttal Evidence, April 15, 1974.
Prehearing Conference, April 22, 1974 (10:00 a.m. e.d.t.).
Hearing, April 23, 1974 (10:00 a.m. e.d.t.).

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-4340 Filed 2-22-74;8:45 am]

[Docket No. E-8176]

SOUTHERN CALIFORNIA EDISON CO.

Order Denying Rehearing

FEBRUARY 19, 1974.

On January 23, 1974, Anza Electric Cooperative, Inc. (Anza) filed with the Commission a petition for Rehearing of the Commission's Order of January 3, 1974. Anza seeks rehearing of that order insofar as it reversed the Commission's order of August 29, 1973, which provided that the rate increase proposed in this docket may become effective as to Anza only after a Commission order approving the increase in whole or in part. Anza states that since the matter has been argued to the Commission previously, Anza doubts whether any further petition for rehearing is necessary or consistent with Commission practice, but in view of the language of section 313(a) of the Federal Power Act, the matter is unclear and the instant filing is being made as a protective matter. Anza requests that the Commission, on rehearing, modify its order of January 3, 1974, and reinstate the provisions of its order of August 29, 1973, as modified by its letter order of December 6, 1973, specifying that Edison's rate increase as to Anza be collected only for the period subsequent to December 8, 1973.

We believe that our order of January 3, 1974, fully disposed of the issues upon which the instant application is apparently based, and we shall therefore deny Anza's petition.

The Commission finds. The petition for rehearing of Anza raises no facts or points of law which would provide an appropriate basis for modification of the Commission's order of January 3, 1974.

The Commission orders. (A) The petition for rehearing of Anza, filed on January 23, 1974, is 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.74-4310 Filed 2-22-74;8:45 am]

[Docket No. RP74-6]

SOUTHERN NATURAL GAS CO.

Notice Deferring Procedural Dates

FEBRUARY 15, 1974.

On February 16, 1974, Commission Staff filed a letter motion for an extension of the procedural dates fixed by a Commission order of December 21, 1973 in the matter of Columbia Nitrogen Company and Nipro, Inc. to April 1, 1974 for the convening of formal hearings and March 19, 1974 for the filing of evidence. Such request was said to be justified by the conflicting obligations of the assigned Presiding Administrative Law Judge. Staff asserts that all parties concur in its motion.

Upon consideration, notice is hereby given that the Commission's Order of December 21, 1973 is hereby amended to read: In ordering paragraph (A) February 26, 1974 is changed to April 1, 1974; and ordering paragraph (C) is changed to March 19, 1974 from February 19, 1974. Except as amended, this order remains otherwise in full effect.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-4342 Filed 2-22-74;8:45 am]

[Docket No. RP66-12]

TEXAS GAS TRANSMISSION CORP.

Notice of Refund

FEBRUARY 15, 1974.

Take notice that Texas Gas Transmission Corporation (Texas Gas) on February 5, 1974, filed with the Commission a report indicating that it made available to its customers a refund for the period January 1, 1961 through December 31, 1964. This refund is purportedly a flow-through of amounts received by Texas Gas from Texas Eastern Transmission Corporation in Docket No. RP66-12.

Texas Gas states that the refund computation is made in accordance with Article V of the Terms and Conditions of Settlement in Docket No. G-18886 and Articles IV, VI and VIII of the Statement of Proposed Settlement in Docket No. RP61-15.

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 February 28, 1974. Parties who have previously filed petitions to intervene need not file new protests or petitions relating only to this notice. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-4344 Filed 2-22-74;8:45 am]

[Docket No. RP74-39-5]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Postponement of Hearing

FEBRUARY 15, 1974.

On February 13, 1974, the Town of Smyrna, Tennessee, filed a motion for a postponement of the hearing in the above-designated proceeding from February 19, 1974, to February 26, 1974. The motion states that counsel for Texas Eastern Transmission Corporation, United Cities Gas Company, and Com-

mission Staff have agreed to the postponement.

Upon consideration, notice is hereby given that the hearing is postponed to February 26, 1974 at 9:00 a.m., e.d.t., in a hearing room of the Federal Power Commission, 825 N. Capitol St. NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-4345 Filed 2-22-74;8:45 am]

[Docket No. E-8158]

WISCONSIN POWER & LIGHT CO.

Notice of Further Extension of Time and Postponement of Prehearing Conference and Hearing

FEBRUARY 14, 1974.

On January 29, 1974, Staff Counsel filed a motion for an extension of the procedural dates fixed by notice issued December 13, 1973 in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are further modified as follows:

Service of evidence by Staff, March 29, 1974.
Service of Intervenor Evidence, April 15, 1974.
Service of Company Rebuttal, May 3, 1974.
Prehearing Conference, May 14, 1974 (10:00 a.m. e.d.t.).
Hearing, May 15, 1974 (10:00 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-4341 Filed 2-22-74;8:45 am]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

PUBLIC MEETING

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on March 6, 1974 at the Los Angeles Marriott Hotel, 5855 West Century Boulevard, Los Angeles, California from 7:00 p.m. through March 10, 1974 at noon.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The meeting is called to discuss the draft of the annual report for 1974 and to participate in the California Association of Compensatory Education meeting.

Because of limited space for the meeting of March 6 through 10, all persons wishing to attend should call for reservations at Area Code 202/382-6945 by March 1, 1974.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located at 425 13th Street, NW., Suite 1012, Washington, D.C.

Signed at Washington, D.C. on February 20, 1974.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc.74-4338 Filed 2-22-74;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR RESEARCH MANAGEMENT IMPROVEMENT

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Advisory Panel for Research Management Improvement to be held at 8:30 a.m. on March 4 and 5, 1974, in Room 642 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 Pub. L. 92-463.

For further information concerning this Panel, contact Ms. Jean T. DeBell, Program Director, Research Management Improvement Program, Room 706, 1800 G Street NW., Washington, D.C. 20550.

T. E. JENKINS,
Assistant Director for Administration.

FEBRUARY 14, 1974

[FR Doc.74-4325 Filed 2-22-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 20, 1974. (44 USC 3509) The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529).

NEW FORMS

DEPARTMENT OF AGRICULTURE

Soil Conservation Service: Conservation Plan of Operations—RECP Program: Forms SCS-CONS-11; SCS-CONS-12; Occasional; Lowry; Farm Owners/Operator.

DEPARTMENT OF COMMERCE

Bureau of East-West Trade: Ferrous Scrap "Ship-Breaking"—Reporting Requirement: Form EAR 377.4A(d); Monthly; Caywood; Business firms.

FEDERAL ENERGY ADMINISTRATION

Request for Data on Coal Conversion: Form; Single time; Lowry; Electric utilities.

REVISIONS

DEPARTMENT OF COMMERCE

Bureau of the Census:
- Current Sales and Credit Report—Multi-unit Firm: Form BUS 67P; Annual; Weiner; Retail business firm which operate 11 or more retail estab.
- Current Sales and Credit Report: Form BUS 50P; Annual; Weiner; Retail business firm which operate 10 or less retail establishments.
- Current Service Trade Report: Form BUS 80P; Annual; Weiner; Service business firm.

DEPARTMENT OF COMMERCE

Bureau of the Census: Current Service Trade Report: Form BUS 80P; Annual; Weiner; Service business firm.

EXTENSIONS

DEPARTMENT OF COMMERCE

Economic Development Administration:
- Application for Assistance from the Economic Development Administration to Finance Public Works Impact Projects: Form ED 101-PWIP; Occasional; Evinger (x).
- Application for Assistance from the Economic Development Administration to Finance Public Works and Development Facilities; Form ED 101; Occasional; Evinger (x).

DEPARTMENT OF STATE

Preliminary Questionnaire to Determine Immigrant Status: Form FS 497; Occasional; Evinger (x).

Biographic Data for Visa Purposes: Form DSP 70; Occasional; Evinger (x).

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-4396 Filed 2-22-74;8:45 am]

TARIFF COMMISSION

DEE VEE FOOTWEAR INC.

Investigation Concerning Workers' Petition for Determination

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of Dee Vee Footwear, Inc., Bridgeport, Connecticut, the United States Tariff Commission, on February 15, 1974, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major

part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in items 700.32, 700.43, 700.45 and 700.55 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such requests is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

Issued: February 19, 1974.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.74-4318 Filed 2-22-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OFF LOUISIANA

Oil and Gas Lease Sale #33

BID SUBMISSION PROCEDURES

1. Pursuant to section 8 of the Outer Continental Shelf Lands Act (67 Stat. 462; (43 U.S.C. Sec. 1331–1343)) and the regulations issued thereunder (43 CFR Part 3300), sealed bids mailed to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, The Plaza Tower, Suite 3200, 1001 Howard Avenue, New Orleans, Louisiana 70113 must be received by 9:30 a.m., c.s.t. on March 28, 1974, for the lease of oil and gas in tracts described in paragraph 12 herein, in areas of the Outer Continental Shelf (OCS) adjacent to the State of Louisiana. Bids delivered in person to the Manager will be received at his office at the above address through 4:15 p.m., c.s.t., March 27, 1974; on March 28, 1974, bids may be delivered in person to the Manager only at the Tulane Room, Braniff Place, 1500 Canal Street, New Orleans, Louisiana 70112 between 8:30 a.m., c.s.t. and 9:30 a.m., c.s.t. Bids received by the Manager after 9:30 a.m., on that date will be returned to the bidders unopened. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager by 9:30 a.m., March 28, 1974. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR 3302.1, 3302.4, and 3302.5.

FORM OF BID

2. A separate bid in a separate envelope must be submitted for each tract. The envelope should be labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10:00 a.m., c.s.t., March 28, 1974." A suggested form of bid is set out in paragraph 15. Bidders must submit with each bid one-fifth of the amount bid in cash or by cashier's check, bank draft, certified check, or money order, payable to the order of the Bureau of Land Management. Oil payment, overriding royalty, logarithmic or sliding scale bids may not be submitted. No bid for less than a full tract as listed in paragraph 12 will be considered. Bidders are warned against violation of Section 1860 in Title 18 U.S.C. prohibiting unlawful combination or intimidation of bidders.

3. Each bidder must have submitted by 9:30 a.m., c.s.t., March 28, 1974, the certification required by 41 CFR 60–1.7 (b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375, on Form 1140–8 (November 1973) and Form 1140–7 (December 1971).

4. Tracts being offered for lease may be located on the following official leasing maps:

(1) Louisiana Outer Continental Shelf Official Leasing Maps—Set of 26. These maps may be purchased for $15.00 per set.

(2) Official Leasing Maps Garden Banks NG–15–2; New Orleans NH–15–12; New Orleans South No. 1 NG–15–3; and Mobile South No. 2 NH–16–10. These four maps are included in a set of five maps which may be purchased for $10.00 per set.

These maps and copies of the Compliance Report Certification Form 1140–8 (November 1973) and copies of the Affirmative Action Program Representation Form 1140–7 (December 1971) may be obtained from the Manager, New Orleans Outer Continental Shelf Office at the above address.

BID OPENING

5. Bids will be opened on March 28, 1974, at 10:00 a.m., c.s.t., in the Tulane Room, Braniff Place at the above address. The opening of bids is for the sole purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, March 28, 1974, that bid will be returned unopened to the bidder as soon thereafter as possible.

6. Any cash, checks, drafts, or money orders submitted with the bids may be deposited in an unearned escrow account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bids on behalf of the United States.

ACCEPTANCE OR REJECTION OF BIDS

7. No bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless: (1) The bidder has complied with all requirements of this notice; (2) his bid is the highest valid cash bonus bid for that tract; (3) and the amount of the bonus bid has been determined to be adequate by the United States. No bid will be considered for acceptance unless it offers a cash bonus in the amount of $25 or more per acre or fraction thereof. The United States reserves the right to reject any bid submitted, including, but not by way of limitation, the right to reject any bid for inadequacy even though the bonus bid is in the amount of $25 or more per acre or fraction thereof.

LEASE TERMS

8. Leases issued as a result of this sale will be on Form 3300–1 (February 1971), as modified, in accordance with paragraphs 9 and 10, and containing the rental and royalty provisions of paragraph 11 of this notice. Attention is directed to the Equal Opportunity Clause in section 3(h) and the Certification of Nonsegregated Facilities Clause in section 3(i) of the lease. Copies of the lease form, without the stipulations to be included according to the terms of paragraphs 9 and 10 and the rental and royalty provisions included in paragraph 11 of this notice are available from the Manager, New Orleans Outer Continental Shelf Office.

9. All leases issued as a result of this lease sale will contain the following stipulations:

(1) The lessee agrees that, prior to any drilling activity or the construction or placement of any structures for exploration or development (including, but not limited to, well drilling and pipeline and platform placement), it will conduct sufficient geophysical studies to ascertain the possible existence of any sites, structures, or objects of historical or archaeological significance and if the supervisor determines there are indications of the presence of such significant features, it will utilize the services of recognized professional underwater archaeologists to study and, if necessary, survey the immediate area of the OCS to be affected by such activity, construction, or placement of structures in order to discover any site, structure, or object of historical, architectural, or archaeological significance (all of which such sites, structures, or objects are hereafter in this stipulation included in the term "cultural resource"). Upon completion of such study or survey, and before drilling, construction or placement of structures for exploration or development begins, the archaeological study or survey report shall be forwarded to the Manager, New Orleans OCS Office, Bureau of Land Management, and to the Supervisor. Should the archaeological report indicate that no cultural resource exists or is likely to exist in the immediate area to be affected by exploration or development activity, such activity may proceed. Should the archaeological report indicate that a cultural resource does exist, the Manager shall consult the National Park Service concerning its disposition. Where possible, and subject to the Supervisor's approval, exploration and development activity shall be conducted with every reasonable effort to avoid the disturbance of cultural resources so identified. Where disturbance is unavoidable, the lessee shall utilize the services of recognized underwater

archaeologists to arrange for the salvage recovery of data and materials before exploration or development commences. While such archaeological study or survey and salvage procedures should result in the identification of all cultural resources prior to drilling, construction, or placement of structures, it is agreed that, if any cultural resource should be accidentally discovered after the completion of the archaeological study or survey and salvage, the operator in charge of any activity related to OCS oil and gas exploration or development, including, but not limited to, well drilling and pipeline and platform placement, shall immediately report such findings to the Manager, New Orleans OCS Office, Bureau of Land Management and to the Supervisor and shall make every reasonable effort to preserve and protect the cultural resource from damage. The Manager shall consult the National Park Service concerning the disposition of the cultural resource discovered, including, if appropriate, salvage recovery of data and materials by archaeologists.

(2) The lessee shall have the pollution containment and removal equipment available as required by OCS Order No. 7, of August 28, 1969, as may be amended. After notification by the Operator to the Supervisor of a significant oil spill as defined by OCS Order No. 7, or an oil spill of any size or quantity which cannot be immediately controlled, the operator shall immediately deploy the appropriate equipment to the site of the oil spill, unless, because of weather and attendant safety of personnel, the Supervisor shall modify this requirement.

(3) Structures for drilling or production, including pipelines, shall be kept to the minimum necessary for proper exploration, development, and production and, to the greatest extent consistent therewith, shall be placed so as not to interfere with other significant uses of the Outer Continental Shelf, including commercial fishing. To this end, no structure for drilling or production, including pipelines, may be placed on the Outer Continental Shelf until the Supervisor has found that the structure is necessary for the proper exploration, development, and production of the leased area and that no reasonable alternative placement would cause less interference with other significant uses of the Outer Continental Shelf including commercial fishing. The lessee's exploratory and development plans, filed under 30 CFR 250.34, shall identify the anticipated placement and grouping of necessary structures, including pipelines, showing how such placement and grouping will have the minimum practicable effect on other significant uses of the Outer Continental Shelf, including commercial fishing.

10. In addition, leases issued as a result of this lease sale, for tracts 33–94 and 33–95, will contain the following stipulation for protection of the biotic community on and around the feature known as "18 Fathom Lump."

No drilling permits will be issued by the Area Supervisor, Geological Survey, until he has found that the lessee's exploratory and development plans filed under 30 CFR 250.34 are adequate to insure that exploration and production operations on the leased area will have no significant adverse effect on the biotic community of 18 Fathom Lump. To aid him in his findings he shall request a report on these potential effects from the Manager, New Orleans OCS Office, Bureau of Land Management, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Atlanta, Georgia.

11. Leases will provide for a royalty rate of one-sixth and yearly rental or minimum royalty of $3 per acre or fraction thereof. The successful bidder will be required to pay the remainder of the bid and the first year's rental of $3 per acre or fraction thereof and furnish an acceptable surety bond as required in 43 CFR 3304.1 prior to the issuance of each lease.

TRACT DESCRIPTION

12. The tracts offered for bid are as follows:

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 1

(Approved June 8, 1954; Revised July 22, 1954; Revised Apr. 28, 1966)

West Cameron Area

Tract No.	Block	Description	Acreage
33-1	28	S½N½S½; S½S½.	
	37	N½	4375
33-2	41	E½	2500
33-3	60	NE¼	
	61	NW¼	2500
33-4	104	All	5000
33-5	143	S½	2500
33-6	170	E½	2500
33-7	182	N½	2500
33-8	265	All	5000
33-9	266	All	5000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 1A

(Approved Nov. 15, 1955; Revised Jan. 30, 1957; Revised Apr. 28, 1966)

West Cameron Area—West Addition

Tract No.	Block	Description	Acreage
33-10	436	All	5000
33-11	437	All	5000
33-12	442	All	5000
33-13	443	All	5000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 1B

(Approved Sept. 8, 1959; Revised Apr. 28, 1966)

West Cameron Area—South Addition

Tract No.	Block	Description	Acreage
33-14	446	All	5000
33-15	447	All	5000
33-16	448	All	5000
33-17	451	All	5000
33-18	463	All	5000
33-19	464	All	5000
33-20	465	All	5000
33-21	472	All	5000
33-22	473	All	5000
33-23	477	All	5000
33-24	478	All	5000
33-25	494	All	5000
33-26	507	N½	2500
33-27	524	All	5000
33-28	525	All	5000
33-29	537	All	5000
33-30	538	All	5000
33-31	540	All	5000
33-32	541	All	5000
33-33	551	All	5000
33-34	552	All	5000
33-35	612	All	2338.38
33-36	616	All	5000
33-37	617	All	5000
33-38	622	All	5000
33-39	623	All	5000
33-40	630	All	5000
33-41	631	All	5000
33-42	653	All	3722.39
33-43	654	All	2818.39

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 2

(Approved June 8, 1954; Revised Apr. 28, 1966)

East Cameron Area

Tract No.	Block	Description	Acreage
33-44	38	All	2562.81
33-45	39	All	5000
33-46	54	All	5000
33-47	55	All	2506.70

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 2A

(Approved Sept. 8, 1959; Revised Apr. 28, 1966)

East Cameron Area—South Addition

Tract No.	Block	Description	Acreage
33-48	346	All	5000
33-49	347	All	5000
33-50	355	All	5000
33-51	356	All	5000
33-52	357	All	5000
33-53	358	All	5000
33-54	359	All	5000
33-55	360	All	2500
33-56	361	All	3099.24
33-57	362	All	3043.14
33-58	363	All	2500
33-59	364	All	5000
33-60	365	All	5000
33-61	366	All	5000
33-62	367	All	5000
33-63	368	All	5000
33-64	373	All	5000
33-65	374	All	5000
33-66	378	All	2500
33-67	379	All	2987.03

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 3B

(Approved Sept. 8, 1959; Revised Apr. 28, 1966)

Vermilion Area—South Addition

Tract No.	Block	Description	Acreage
33-68	331	All	5000
33-69	332	All	5000
33-70	342	All	5000
33-71	362	All	5000
33-72	372	All	5000
33-73	374	All	5000
33-74	375	All	5000
33-75	376	All	5000
33-76	378	All	4020.43
33-77	379	All	5000
33-78	380	All	5000
33-79	383	All	5000
33-80	389	All	3658.56
33-81	390	All	2500
33-82	392	All	5000
33-83	393	All	5000
33-84	394	All	5000
33-85	395	All	5000
33-86	396	All	5000
33-87	398	All	5000
33-88	400	All	3948.24
33-89	401	All	5000
33-90	403	All	5000
33-91	404	All	5000
33-92	405	All	5000
33-93	408	All	5000
33-94	409	All	2500
33-95	410	All	3714.06
33-96	411	All	5000
33-97	412	All	5000
33-98	413	All	3912.14

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 3C

(Approved Sept. 8, 1959; Revised Apr. 28, 1966)

South Marsh Island Area—South Addition

Tract No.	Block	Description	Acreage
33-99	128	All	5000
33-100	136	All	2500
33-101	137	All	5000
33-102	145	All	5000
33-103	146	All	5000
33-104	148	All	5000
33-105	149	All	2500
33-106	155	All	5000
33-107	156	All	5000
33-108	168	All	2500
33-109	181	All	2500
33-110	182	All	3473.79
33-111	193	All	5000
33-112	194	All	5000
33-113	195	All	5000
33-114	199	All	3582.09
33-115	201	All	5000
33-116	202	All	5000
33-117	203	All	5000
33-118	204	All	5000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 3D

(Approved Apr. 16, 1971; Revised Jan. 18, 1972)

South Marsh Island Area—North Addition

Tract No.	Block	Description	Acreage
33-119	243	(1)	4351.36
33-120	244	All	5000
33-121	251	All	5000
33-122	252	(1)	4997.08
33-123	255	All	5000
33-124	280	All	5000
33-125	281	All	3214.48

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 4

(Approved June 8, 1954; Revised July 22, 1954; Revised Apr. 28, 1966)

Eugene Island Area

Tract No.	Block	Description	Acreage
33-126	57	All	5000
33-127	59	All	5000
33-128	60	All	5000
33-129	65	E½	2500
33-130	79	All	5000
33-131	80	All	5000
33-132	87	N½	2500
33-133	156	All	5000
33-134	177	All	5000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 4A

(Approved Sept. 8, 1959; Revised Apr. 28, 1966)

Eugene Island Area—South Addition

Tract No.	Block	Description	Acreage
33-135	301	S½	2500
33-136	312	All	5000
33-137	313	All	5000
33-138	320	All	5000
33-139	321	All	5000
33-140	324	All	5000
33-141	325	All	5000
33-142	332	All	5000
33-143	334	All	5000
33-144	337	E½	2500
33-145	345	All	5000
33-146	346	All	5000
33-147	367	All	5000
33-148	374	All	5000
33-149	375	All	5000
33-150	390	All	5000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 5

(Approved June 8, 1954; Revised Apr. 28, 1966; Revised July 22, 1968)

Ship Shoal Area

Tract No.	Block	Description	Acreage
33-151	115	All	4867.78
33-152	148	W½	2500

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 6

(Approved June 8, 1954; Revised July 22, 1954; Revised Dec. 9, 1954; Revised Apr. 28, 1966)

South Timbalier Area

Tract No.	Block	Description	Acreage
33-153	26	S½	2500
33-154	29	All	5000
33-155	30	All	5000
33-156	31	All	5000
33-157	36	All	5000
33-158	37	All	5000
33-159	38	All	5000
33-160	182	All	2148.46
33-161	183	All	2148.46

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 7

(Approved June 8, 1954; Revised Apr. 28, 1966)

Grand Isle Area

Tract No.	Block	Description	Acreage
33-162	33	All	5000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 7A

(Approved Sept. 8, 1959; Revised Mar. 7, 1961; Revised Apr. 28, 1966)

Grand Isle Area—South Addition

Tract No.	Block	Description	Acreage
33-163	93	All	5000
33-164	96	All	5000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 8

(Approved June 8, 1954; Revised Apr. 28, 1966)

West Delta Area

Tract No.	Block	Description	Acreage
33-165	78	S½	2500
33-166	86	N½	2500
33-167	87	N½	2500
33-168	109	(2)	3500.85

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 9

(Approved June 8, 1954; Revised July 22, 1954; Revised Apr. 28, 1966)

South Pass Area

Tract No.	Block	Description	Acreage
33-169	17	(3)	1388.04
33-170	57 and South Pass. South Addition 77.	(4)	3007.52
33-171	58 and South Pass. South Addition 78.	(5)	2362.33
33-172	59	(6)	2564.19

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 10

(Approved June 8, 1954; Revised July 22, 1954; Revised Apr. 28, 1966)

Main Pass Area

Tract No.	Block	Description	Acreage
33-173	147	N½	2280.40

OFFICIAL LEASING MAP, GARDEN BANKS, NG-15-2

(Approved Feb. 15, 1973)

Tract No.	Block	Description	Acreage
33-174	N634 E101	All	5760
33-175	N634 E102	All	5760
33-176	N634 E103	All	5760
33-177	N635 E101	All	5760
33-178	N635 E102	All	5760
33-179	N635 E103	All	5760
33-180	N636 E101	All	5760
33-181	N636 E102	All	5760
33-182	N636 E103	All	5760
33-183	N639 E116	All	5760
33-184	N639 E117	All	5760
33-185	N639 E118	All	5760
33-186	N639 E120	All	5760
33-187	N639 E121	All	5760
33-188	N640 E111	All	5760
33-189	N640 E116	All	3648.30
33-190	N640 E117	All	2864.28
33-191	N640 E118	All	5333.75
33-192	N640 E120	All	5608.89
33-193	N649 E121	All	3472.91
33-194	N640 E123	All	4208.51
33-195	N640 E124	All	4289.25
33-196	N640 E125	All	4369.83
33-197	N641 E111	All	1298.25
33-198	N641 E112	All	1836.77
33-199	N641 E113	All	2138.06
33-200	N641 E118	All	2188.71
33-201	N641 E120	All	2534.10

OFFICIAL LEASING MAP, NEW ORLEANS SOUTH NO. 1, NG-15-3 (APPROVED FEB. 15, 1973)

Tract No.	Block	Description	Acreage
33-202	N641 E 131	All	5744.12
33-203	N641 E 132	All	5760

OFFICIAL LEASING MAP, NEW ORLEANS, NH-15-12 (APPROVED FEB. 15,1973)

Tract No.	Block	Description	Acreage
33-204	N642 E 131	All	664.43
33-205	N642 E 132	All	5409.88

OFFICIAL LEASING MAP, MOBILE SOUTH NO. 2 NH-16-1 (APPROVED FEB. 15,1973)

Tract No.	Block	Description	Acreage
33-206	N660 E 59	All	3283.56
33-207	N660 E 60	All	5760
33-208	N660 E 61	All	5760
33-209	N660 E 62	All	5760
33-210	N660 E 63	All	5760
33-211	N661 E 59	All	
	N662 E 59	All	
	N662 E 60	All	2658.55
33-212	N661 E 60	All	5756.01
33-213	N661 E 61	All	5611.56
33-214	N661 E 62	All	5397.37
33-215	N661 E 63	All	5602.82

[1] Those portions of Blocks 243 or 252 located more than 3 marine leagues seaward of a line extending from a point on Shell Keys at latitude 29°24'32.15" N., longitude 91°51'16.59" W. (X=1,834,019, Y=270,301) northwesterly in a straight line to Tigre Point at latitude 29°32'23.13" N., longitude 92°14'57.15" W. (X=1,708,756, Y=318,661). The coordinates used refer to the Louisiana Plane Coordinate System, South Zone.

[2] That portion of Block 109 more than one foot seaward of the Third Supplemental Decree Line [404 U.S. 388 (Dec. 20, 1971)].

[3] That portion of Block 17 seaward of the Fourth Supplemental Decree Line [409 U.S. 17 (Oct. 16, 1972)].

[4] That portion of Block 57 between the line one foot seaward of the Third Supplemental Decree Line [404 U.S. 388 (Dec. 20, 1971)] and the line 3 geographical miles seaward of the First Supplemental Decree Line, [382 U.S. 288 (Dec. 13, 1965)], and that portion of Block 77 less than 3 geographical miles seaward of the First Supplemental Decree line [382 U.S. 288 (Dec. 13, 1965)].

[5] Those portions of Blocks 58 and 78 between the line 1 foot seaward of the Third Supplemental Decree Line [404 U.S. 388 (Dec. 20, 1971)] and the line 3 geographical miles seaward of the First Supplemental Decree Line [382 U.S. 288 (Dec. 13, 1965)].

[6] That portion of Block 59 between the Fourth Supplemental Decree Line [409 U.S. 17 (Oct. 16, 1972)] and a line 3 geographical miles seaward from the First Supplemental Decree Line [382 U.S. 288 (Dec. 13, 1965)].

13. Some of the tracts offered for lease may fall in fairway areas (including the prolongations thereof) or anchorage areas, or both, as designated by the District Engineer, New Orleans District Corps of Engineers, U.S. Army. For the location of those areas and operational restrictions imposed by that agency, the District Engineer should be consulted.

WITHDRAWAL OF TRACTS

14. The United States reserves the right to withdraw any tract from this sale prior to the issuance of a written acceptance of a bid for that tract.

SUGGESTED BID FORM

15. It is suggested that bidders submit their bids addressed to:

Manager, Outer Continental Shelf Office
Bureau of Land Management
Department of the Interior
The Plaza Tower, Suite 3200
1001 Howard Avenue
New Orleans, Louisiana 70113

in the following form:

OIL AND GAS BID

The following bid is submitted for an oil and gas lease on the land of the Outer Continental Shelf specified below:

Official Leasing Map Name _____; Official Leasing Map No. ____

Tract No.	Total Amount Bid	Amount Per Acre	Amount Submitted With Bid

_____
Signature
(Please type signer's name under signature)

N. O. Misc. No. ____ Percent ____

_____
(Company)

CURT BERKLUND,
Director,
Bureau of Land Management.

Approved: February 22, 1974.
JACK HORTON,
Assistant Secretary of the Interior.

[FR Doc.74-4525 Filed 2-22-74;9:58 am]

Office of Hearings and Appeals

[Docket No. M 74-45]

GAY COAL, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Gay Coal Inc. has filed a petition to modify the application of 30 CFR 75.-500(b) to its Grays Gap No. 2 Mine and the No. 5 Mine, both located near Oliver Springs, Tennessee.

30 CFR 75.500(b) reads as follows:

(b) All handheld electric drills, blower and exhaust fans, electric pumps, and such other low horsepower electric face equipment as the Secretary may designate on or before May 30, 1970, which are taken into or used in by the last open crossout of any coal mine shall be permissible;

Such section requires that electric water pumps in use in face areas and return aircourses be permissible. Petitioner's water pump are not permissible, but Petitioner believes that its pumps are as electrically safe as some permissible units.

Petitioner requests that it be allowed to continue using its pumps in the above-listed mines

Petitioner states in support of its petition that the mines are operating in a coal bed near the top of a mountain at an elevation of 2,300 feet, well above the water table. The mine openings are usually relocated about once a year, and they seldom penetrate the coal bed to a depth of more than 2,000 feet. Methane has never been detected at the mines and there are no extensive gob areas. Only one unit of equipment is operated on a single split of air.

Petitioner states that submergible water pumps have been used in the local mining area for the past ten years without any adverse effects. Such pumps are totally enclosed electrically and they are capable of operating entirely under water. The switchboxes and power connection points serving the pumps are located in intake air. For that reason, Petitioner believes that it is virtually impossible for the pumps to be a fire hazard.

Petitioner believes that the use of its pumps will not diminish the safety of the miners in any way.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 27, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

FEBRUARY 13, 1974.

[FR Doc.74-4333 Filed 2-22-74;8:45 am]

[Docket No. M 74-46]

OLIVER SPRINGS MINING CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), the Oliver Springs Mining Co., Inc. has filed a petition to modify the application of 30 CFR 75.500(b) to its No. 3, No. 5, and No. 6 Mines, all located near Oliver Springs, Tennessee.

30 CFR 75.500(b) reads as follows:

(b) All handheld electric drills, blower and exhaust fans, electric pumps, and such other low horsepower electric face equipment as the Secretary may designate on or before May 30, 1970, which are taken into or used inby the last open crosscut of any coal mine shall be permissible;

Such section requires that electric water pumps in use in face areas and return aircourses be permissible. Petitioner's water pumps are not permissible, but Petitioner believes that its pumps are as electrically safe as some permissible units.

Petitioner requests that it be allowed to continue using its pumps in the above-listed mines.

Petitioner states in support of its petition that the mines are operating in a coal bed near the top of a mountain at an elevation of 2,300 feet, well above the water table. The mine openings are usually relocated about once a year, and they seldom penetrate the coal bed to a depth of more than 2,000 feet. Methane has never been detected at the mines and there are no extensive gob areas. Only one unit of equipment is operated on a single split of air.

Petitioner states that submergible water pumps have been used in the local mining area for the past ten years without any adverse effects. Such pumps are totally enclosed electrically and they are capable of operating entirely under water. The switchboxes and power connection points serving the pumps are located in intake air. For that reason, Petitioner believes that it is virtually impossible for the pumps to be a fire hazard.

Petitioner believes that the use of its pumps will not diminish the safety of the miners in any way.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 27, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

FEBRUARY 13, 1974.

[FR Doc.74-4332 Filed 2-22-74;8:45 am]

Office of the Secretary

[DES 74-11]

PROPOSED LAKE WOODRUFF WILDERNESS AREA, FLORIDA

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, the Department of the Interior has prepared a draft environmental statement for the proposed Lake Woodruff Wilderness Area, located in Florida, and invites written comments on or before April 11, 1974.

The proposal recommends that 1,106 acres of island habitat in the Lake Woodruff National Wildlife Refuge, located in Volusia and Lake Counties in east central Florida be designated as wilderness within the National Wilderness Preservation System.

Copies of the draft statement are available for inspection at the following locations:

Bureau of Sport Fisheries and Wildlife
17 Executive Drive, NE.
Atlanta, Georgia 30329

Headquarters
Lake Woodruff National Wildlife Refuge
Box 488
DeLeon Springs, Florida 32028

Bureau of Sport Fisheries and Wildlife
Office of Environmental Coordination
Department of the Interior
Room 2246
18th and "C" Streets, NW.
Washington, D.C. 20240

Single copies may be obtained by writing the Chief, Office of Environmental Coordination, Bureau of Sport Fisheries and Wildlife, Department of the Interior, Washington, D.C. 20240. Comments concerning the proposed action should also be addressed to the Chief, Office of Environmental Coordination. Please refer to the statement number above.

Dated: February 15, 1974.

WILLIAM A. VOGELY,
Acting Deputy Assistant Secretary, Program Development and Budget.

[FR Doc.74-4331 Filed 2-22-74:8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

LIMESTONE MINING, PLAN OF OPERATION

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Limestone Mining—Plan of Operation under a limestone mineral lease, on the Withlacoochee State Forest, in Citrus County, Florida, USDA-FS-R8-DES (Adm.)-74-5.

This environmental statement concerns the proposed plan of operations for Mining Limestone deposits, under Mineral Lease to Florida Rock Industries, Inc., on a portion of the Withlacoochee State Forest whereon the minerals are owned by the Uniited States and administered by the National Forests in Florida.

This draft environmental statement was transmitted to CEQ on February 14, 1974.

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

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave., SW.
Washington, D.C. 20250

USDA, Forest Service
1720 Peachtree Road, NW., Room 804
Atlanta, Georgia 30309

A limited number of single copies are available upon request to B. Frank Finison, Forest Supervisor, National Forests in Florida, P.O. Box 1050, Tallahassee, Florida 32302; or to John M. Bethea, Director, Division of Forestry, Collins Building, Tallahassee, Florida 32304.

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

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

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

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, B. Frank Finison, National Forests in Florida, Box 1050, Tallahassee, Florida. Comments must be received by April 15, 1974 in order to be considered in the preparation of the final environmental statement.

DAVID E. KETCHAM,
Deputy Regional Forester.

FEBRUARY 15, 1974.

[FR Doc.74-4287 Filed 2-22-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 452]

ASSIGNMENT OF HEARINGS

FEBRUARY 20, 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 the date of this publication.

MC 108937 (Sub-No. 39), Murphy Motor Freight Lines, Inc., now being assigned hearing May 6, 1974 (2 weeks), at St. Paul, Minn., in a hearing room to be later designated.

MC-112422 Sub 5, Sam Vam Galder, Inc., now being assigned hearing May 1, 1974 (1 day), at Madison, Wis., in a hearing room to be later designated.

MC 118288 Sub-33, Stephen F. Frost,, now being assigned for hearing May 6, 1974 (1 week), at Helena, Montana, in a hearing room to be later designated.

MC 12811 Sub 1, Lincoln Tour & Travel Agency, Inc., now being assigned hearing May 6, 1974 (3 days), at Lincoln, Nebr., in a hearing room to be later designated.

MC-C-8242, General Leaseways, Inc., Burk Distributing Co., Inc., Levi Distributing, Inc., Keith V. Knight, dba Knight Distributing Co., and Joseph G. Bowers—Investigation of Operations—now being assigned hearing May 1, 1974 (1 day), at Des Moines, Iowa, in a hearing room to be later designated.

MC 108119 Sub-37, E. L. Murphy Trucking Company, and MC 113855 Sub-286, International Transport, Inc., are continued to April 2, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 135537 Sub 8, Metro Heavy Hauling, Inc., now assigned March 11, 1974, at Olympia, Wash., will be held on the 6th Floor, Highway Licenses Bldg., 12th and Washington Streets.

MC-C-8277, Cedar Rapids Steel Transportation, Inc.—Investigation and Revocation of Certificates—now assigned March 25, 1974, at Omaha, Nebr., will be held in Room 616, Union Pacific Plaza, 14th and Dodge.

MC 124211 Sub 121, Hilt Truck Line, Inc., now assigned March 27, 1974, at Omaha, Nebr., will be held in Room 616, Union Pacific Plaza, 14th and Dodge.

I&S M-27472, General Increase, January 1974, Between Central & Southern States, now assigned March 18, 1974, at Washington, D.C., is postponed to April 16, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-FC-74226, Taylor Freight System, Inc., Transferee—Dependable Container Service, Inc., Transferor and MC-FC-74488, Jetex Freight Systems, Inc., Transferee—James H. Russell, Transferor now assigned March 4, 1974, at Washington, D.C., is postponed to April 9, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-4360 Filed 2-22-74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

FEBRUARY 20, 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 March 12, 1974.

FSA No. 42805—*Returned Shipments of Beet or Cane Sugar to St. Charles, Illinois.* Filed by Southwestern Freight Bureau, Agent (No. B-464), for interested rail carriers. Rates on sugar, beet or cane, dry, returned, in carloads, as described in the application, from Bayport, Houston, and Sugar Land, Texas, to St. Charles, Illinois.

Grounds for relief—Rate relationship and returned shipments.

Tariff—Supplement 87 to Southwestern Freight Bureau, Agent, tariff 72-H, I.C.C. No. 4886. Rates are published to become effective on March 18, 1974.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-4361 Filed 2-22-74;8:45 am]

[Notice 29]

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 March 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 the petitions with particularity.

No. MC–FC–74973. By Order of February 19, 1974, the Motor Carrier Board approved the transfer to Dedham Parcel Service, Inc., Hyde Park, Mass., of Certificate of Registration No. MC–99420 (Sub No. 1) evidencing a right to engage in interstate or foreign commerce, issued to Barbara J. Pearson, dba Pearson's Express, Quincy, Mass., in the transportation of various specified commodities, solely within the State of Massachusetts—Frank J. Weiner, Attorney, 15 Court Square, Boston, Mass. 02108.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-4358 Filed 2-22-74;8:45 am]

[Notice 27]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 19, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 C.F.R. 1131) 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.

No. MC 25798 (Sub-No. 255 TA), filed January 31, 1974. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, P.O. Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* from Belvidere, Ill., to points in Arkansas, Louisiana, Oklahoma, and Texas, for 180 days. SUPPORTING SHIPPER: Green Giant Company, Le-Sueur, Minn. 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 29120 (Sub-No. 174 TA), filed February 7, 1974. Applicant: ALL-AMERICAN, INC., 900 West Delaware St., P.O. Box 769, Sioux Falls, S. Dak. 57104. Applicant's representative: Michael J. Ogborn (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay, foundry molding sand treating compounds*, in bags, and *water impedance boards*, from the plantsite of the Baroid Division, National Lead Co. at or near Colony, Wyo., to points in North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Michigan, Illinois, Indiana, Ohio, Kentucky, and Tennessee, for 180 days. SUPPORTING SHIPPER: Baroid Division, N L Industries, Inc., P.O. Box 1675, Houston, Tex. 77001 (J. J. Doyle, Manager, Physical Distribution). SEND PROTESTS TO: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 48423 (Sub-No. 2 TA) (Amendment) filed January 7, 1974, published in the FEDERAL REGISTER issue of January 24, 1974, and republished as amended this issue. Applicant: G. E. BELMORE, doing business as MOTOR TRANSIT COMPANY, 5822 N. Interstate Avenue, Portland, Oreg. 97217. Applicant's representative: Philip G. Skofstad, 3076 E. Burnside, Portland, Oreg. 97214. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Structural iron and steel*, between Portland, Oreg., and points along the International Boundary line between the United States and Canada located in Washington, Idaho, and Montana; and (2) *nails*, from points along the International Boundary line between the United States and Canada located in Washington, and Idaho, to Portland, Oreg.

NOTE.—The purpose of this republication is to indicate applicant's amend request for authority. SUPPORTING SHIPPER: Woodbury & Company, 5851 N. Lagoon, Swan Island, Portland, Oreg. 97217. SEND PROTESTS TO: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Court House, 520 SW. Morrison, Portland, Oreg. 97204.

No. MC 82063 (Sub-No. 48 TA), filed February 7, 1974. Applicant: KLIPSCH HAULING CO., a Corporation, 119 E. Loughborough, St. Louis, Mo. 63111. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitric acid*, in bulk, in tank vehicles, from the plantsite and storage facilities of Atlas Powder Co., Division of I.C.I. of America, Inc., at or near Atlas (Jasper County), Mo., to the University of California, Los Alamos Scientific Laboratory, Los Alamos, N. Mex., for 180 days. SUPPORTING SHIPPER: Thompson-Hayward Chemical Company, 5200 Speaker Road, Kansas City, Kans. 66110. SEND PROTESTS TO: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 104589 (Sub-No. 27TA), filed February 8, 1974. Applicant: J. L. LAWHON TRUCKING, INC., P.O. Box 1384, Bradenton, Fla. 33505. Applicant's representative: David C. Venable, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by wholesale floor covering and appliance distributors, from points in and east of Minnesota, Iowa, Missouri, Kansas, Oklahoma, and Texas to points in Florida and that part of Georgia on and south of U.S. Highway 50, under a continuing contract with Cain & Bultman, Inc., for 180 days. SUPPORTING SHIPPER: Cain & Bultman, Inc., 60 Copeland Street, Jacksonville, Fla. 32203. 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 106674 (Sub-No. 125 TA), filed February 7, 1974. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solution*, in bulk, in tank vehicles, from Dublin and Jordon, Ind., to points in Illinois, Kentucky, Michigan, and Ohio and from Breese, Ill., to points in Indiana and Kentucky, for 180 days. SUPPORTING SHIPPER: Agrico Chemical Company, P.O. Box 3166, Tulsa, Okla. 74101. SEND PROTESTS TO: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 345 W. Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 107403 (Sub-No. 882 TA), filed February 8, 1974. Applicant: MATLACK,

INC., 10 W. Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silicate of soda*, dry, in bulk, in hopper-type vehicles, from Cincinnati, Ohio, to Muscatine, Iowa, for 180 days. SUPPORTING SHIPPER: Diamond Shamrock Chemical Co., 1100 Superior Avenue, Cleveland, Ohio 44114, Attn.: E. E. Bracken, Jr., Manager, Truck Transportation. SEND PROTESTS TO: Ross A. Davis, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 113362 (Sub-No. 267 TA), filed February 8, 1974. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Milton D. Adams, Box 562, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in packages, from Falling Rock, W. Va., to points in Iowa, for 180 days. SUPPORTING SHIPPER: Pennziod Company, P.O. Box 808, Oil City, Pa. 16301. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 114301 (Sub-No. 81 TA), filed February 8, 1974. Applicant: DELAWARE EXPRESS CO., P.O. Box 97, Elkton, Md. 21921. Applicant's representative: Chester A. Zyblut, 1522 K St. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Waste oils*, in bulk, from points in New York, New Jersey, Pennsylvania, Delaware, and the District of Columbia, to Elkton, Md.; and (2) *recycled oils*, in bulk, from Elkton, Md., to points in New York, New Jersey, Pennsylvania, Delaware, and the District of Columbia, for 180 days. SUPPORTING SHIPPER: Ernest Roth, President Chemcom International, Inc., P.O. Box 748, Bryn Mawr, Pa. 19010. SEND PROTESTS TO: William L. Hughes, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 814–B Federal Building, Baltimore, Md. 21201.

No. MC 114848 (Sub-No. 55TA), filed February 7, 1974. Applicant: WHARTON TRANSPORT CORPORATION, P.O. Box 13068, Riverside Station, 1498 Channel Avenue, Memphis, Tenn. 38106. Applicant's representative: Terry T. Wharton, P.O. Box 13068, Riverside Branch, Memphis, Tenn. 38113. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean flakes, grits, and meal*, in bulk, in pneumatic hopper type equipment, from Bloomington, Ill., to Memphis, Tenn., for 180 days. SUPPORTING SHIPPER: Ralston Purina Company, Checkerboard Square, St. Louis, Mo. 63188. SEND PROTESTS TO: Floyd A. Johnson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 435 Federal Office Building, 167 North Main Street, Memphis, Tenn. 38103.

No. MC 114896 (Sub-No. 12 TA), filed February 7, 1974. Applicant: PUROLATOR SECURITY, INC., 1341 W. Mockingbird Lane, Suite 1101E, Mockingbird Towers, Dallas, Tex. 75202. Applicant's representative: William E. Fullingim (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline coupons*, between all points in the Continental United States (except Alaska and Hawaii), for 180 days. SUPPORTING SHIPPER: General Services Administration, Building 4, Crystal Mall, Washington, D.C. 20406. SEND PROTESTS TO: Transportation Specialist Gerald T. Holland, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 115092 (Sub-No. 29 TA), filed February 6, 1974. Applicant: WEISS TRUCKING, INC., P.O. Box 0, Vernal, Utah 84078. Applicant's representative: Walter J. Kobos, 1016 Kehoe Drive, St. Charles, Ill. 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay, foundry molding sand treating compounds and water impedance boards*, in packages in truckload lots, from Belle Fourche, S. Dak., to Page, Ariz., and points in Maricopa and Pima Counties, Ariz., Edwards Air Force Base, California, and Alameda, Contra Costa, Los Angeles, Orange, San Diego, San Francisco, and San Mateo Counties, Calif., for 180 days. SUPPORTING SHIPPER: American Colloid Company, 5100 Suffield Court, Skokie, Ill. 60076 (Robert N. Garity, Supervisor/Coordinator—Rates & Service). SEND PROTESTS TO: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 115162 (Sub-No. 286 TA), filed February 7, 1974. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fireplaces, fireplaces and chimney combined, and fireplace units and accessories*, from points in Colbert, Limestone, and Madison Counties, Ala., to points in Emmett County, Mich., for 180 days. SUPPORTING SHIPPER: Irish Embers Fireplace Shop, 1855 Bayview Drive, Petoskey, Mich. SEND PROTESTS TO: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 115162 (Sub-No. 287 TA), filed February 7, 1974. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from the plantsite of Temple Industries, Inc., at or near Thomson, Ga., to points in Florida, South Carolina, North Carolina, Virginia, West Virginia, Kentucky, Tennessee, Alabama, and Mississippi, for 180 days. SUPPORTING SHIPPER: Temple Industries, Inc., Particleboard Division, Diboll, Tex. 75941. SEND PROTESTS TO: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 116254 (Sub-No. 141 TA), filed February 7, 1974. Applicant: CHEM-HAULERS, INC., P.O. Drawer M, Sheffield,, Ala. 35660. Applicant's representative. Douglas O. Logue (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, irregular routes, transporting: *Liquid aluminum sulfate*, in bulk, in tank vehicles, from Counce, Tenn., to points in Alabama north of a line starting at the Mississippi-Alabama border on Route 78, along Route 78 to Hamilton, Ala., thence along Route 278 to the Alabama-Georgia border, for 180 days. SUPPORTING SHIPPER: Stauffer Chemical Company, Westport, Conn. 06880. SEND PROTESTS TO: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 116273 (Sub-No. 169 TA), filed February 6, 1974. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil*, in bulk, in tank vehicles, from Milwaukee and Sheboygan, Wis., to Detroit, Rawnsonville, and Romeo, Mich., for 120 days. SUPPORTING SHIPPER: Eugene R. Parrelle, President, Power Enterprises of Wisconsin, Inc., 3801 Monarch Drive, Racine, Wis. SEND PROTESTS TO: Mr. Richard K. Shullaw, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 124078 (Sub-No. 577 TA), filed February 5, 1974. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement dust*, in bulk, from Nazareth, Pa., to points in New York (except Flushing and Staten Island), for 180 days. SUPPORTING SHIPPER: CEMDUST, Box 154, Waldwick, N.J. 07463 (Robert E. Layton, Partner). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Oper-

ations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 125035 (Sub-No. 30 TA), filed February 6, 1974. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Office: 1266 Stuart St. NW., Massillon, Ohio 44646. Applicant's representative: James E. Davis, 611 West Market Street, Akron, Ohio 44303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pizza and ingredients therefor*, from and to Massillon, Ohio, on the one hand, and, on the other, Cummins and Tifton, Ga.: Chicago, Ill.: Fort Wayne, Ind.; Pee Wee Valley, Ky.; Flint, Grand Rapids, and Livonia, Mich.; Minneapolis, Minn.; Marion and Rochester, N.Y.; Bell Vernon, Erie, and Washington, Pa.; Knoxville, Tenn.; Dallas, Tex.; Salt Lake City, Utah; Richmond, Va.; Spokane, Wash.; and Charleston, Huntington, Roncevertee, and Wayne, W. Va., for 180 days.

NOTE.—Applicant states that it does intend to tack with its authority. SUPPORTING SHIPPER: Baltino Foods, Inc., 1301 Oberlin SW., Massillon, Ohio 44646. SEND PROTESTS TO: Frank L. Calvary, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 220 Federal Building & U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 125996 (Sub-No. 45 TA), filed February 8, 1974. Applicant: ROAD RUNNER TRUCKING, INC., P.O. Box 37491, Omaha, Nebr. 68137. Applicant's representative: Arnold L. Burke, 127 North Dearborn Street, Suite 1133, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals*, other than in bulk, from the plantsite and warehouse facilities of Monsanto Company at or near Muscatine, Iowa, to points in Massachusetts, North Carolina, South Carolina, and Virginia, for 180 days. SUPPORTING SHIPPER: Monsanto Company, Richard E. Schrick, Senior Transportation Analyst, 800 N. Lindberg, St. Louis, Mo. 63166. SEND PROTESTS TO: District Supervisor Carroll Russell, Suite 620, Union Pacific Plaza, 110 N. 14th Street, Omaha, Nebr. 68102.

No. MC 126276 (Sub-No. 86 TA), filed February 5, 1974. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: James C. Hardman, 127 North Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Accessories* for containers, *containers, container ends, and materials, equipment, and supplies* used in the manufacture, sales, and distribution of containers (except commodities in bulk), from Albany, N.Y., to Columbus, Ohio, for 180 days. SUPPORTING SHIPPER: Thomas Riall, Manager, Distribution and Traffic, Continental Can Company, Inc., 1200 Route 46, Clifton, N.J. 07013. SEND PROTESTS TO: Mr. Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 127505 (Sub-No. 64TA), filed February 5, 1974. Applicant: RALPH H. BOELK, doing business as BOELK TRUCK LINES, Route 2, Mendota, Ill. 61342. Applicant's representative: Walter J. Kobos, 1016 Kehoe Drive, St. Charles, Ill. 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass* (except that which because of size or weight requires special equipment or handling), from Floreffe, Pa., to Truesdale, Mo., for 180 days. SUPPORTING SHIPPER: Robert L. Smith, Traffic Manager, C–E Glass, a Division of Combustion Eng., Inc., 825 Hylton Road, Pennsauken, N.J. SEND PROTESTS TO: Mr. William J. Gray, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 127541 (Sub-No. 2TA), filed February 7, 1974. Applicant: GARITH R. ANDERSON, 5747 Glenwood Ave. North, Golden Valley, Minn. 55427. Applicant's representative: Gary J. Meyer, 3735 N. Highway 52, Robbinsdale, Minn. 55422. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glazed concrete blocks*, for Zenith Glazed Products Company (with boom for unloading provided by carrier) on contract for carriage to customer in Schaumburg, Ill., from Maple Grove Village, Minn., to Schaumburg, Ill., for 180 days.

NOTE.—Applicant states that it does intend to tack with its authority. SUPPORTING SHIPPER: Zenith Glazed Products, Inc., Hwy. 152 S. Zachary Lane, Osseo, Minn. SEND PROTESTS TO: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 128664 (Sub-No. 5TA), filed February 6, 1974. Applicant: KARDUX TRANSFER, INC., 1907 Roby Avenue, Box 754, Muscatine, Iowa 52761. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal, poultry, fish, and pet food*, except in bulk, from the plantsite of Doane Products Company at or near Muscatine, Iowa, to points in Illinois, Indiana, Michigan, Minnesota, Nebraska, Ohio, South Dakota, and Wisconsin, for 180 days. SUPPORTING SHIPPER: Doane Products Company, P.O. Box 879, Joplin, Mo. 64801. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 129063 (Sub-No. 6TA), filed February 5, 1974. Applicant: JIMMY T. WOOD, P.O. Box 294, Ripley, Tenn. 38063. Applicant's representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bauxite ore* in dump vehicles, from Memphis, Tenn., to the plantsite of Reynolds Metal Co., at or near Bauxite, Ark., for 180 days. SUPPORTING SHIPPER: Reynolds Metals Company, P.O. Box 128, Malvern, Ark. 72104. SEND PROTESTS TO: Floyd A. Johnson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 435 Federal Office Building, 167 North Main Street, Memphis, Tenn. 38103.

No. MC 135082 (Sub-No. 4 TA), filed February 5, 1974. Applicant: BURSCH TRUCKING, INC., doing business as ROADRUNNER TRUCKING, INC., 415 Rankin Road NE., Albuquerque, N. Mex. 87107. Applicant's representative: Edwin E. Piper, Jr., 1115 Simms Building, Albuquerque, N. Mex. 87101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except in bulk in tank vehicles), from the plant sites, warehouses and storage facilities of McKesson Chemical Company at or near Phoenix (Glendale) and Tucson, Ariz., to points in New Mexico with *return shipments of such chemicals*, except in bulk in tank vehicles, and *empty containers* from points in New Mexico to said plant sites and facilities, for 180 days. SUPPORTING SHIPPER: McKesson Chemical Company, P.O. Box 14799, Phoenix, Ariz. 85031. SEND PROTESTS TO: District Supervisor William R. Murdoch, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Ave. SW., Albuquerque, N. Mex. 87101.

No. MC 138375 (Sub-No. 12 TA), filed February 6, 1974. Applicant: J. H. WARE TRUCKING, INC., 909 Brown Street (P.O. Box 398), Fulton, Mo. 65251. Applicant's representative: Larry D. Knox, 9th Floor, Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic braid*, from Maryville, Mo., to Trenton, N.J., for 180 days. SUPPORTING SHIPPER: Electrolux, Division of Consolidated Foods, 51 Forest Avenue, Old Greenwich, Conn. 06870. SEND PROTESTS TO: Vernon V. Coble, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 138741 (Sub-No. 7TA), filed February 8, 1974. Applicant: E. K. MOTOR SERVICE, INC., 2005 N. Broadway, Joliet, Ill. 60435. Applicant's representative: Lucy Kennard Bell, Suite 910, Fairfax Bldg., 101 West Eleventh St., Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and construction materials and supplies* (except commodities in bulk), from the plant site and warehouse facilities of the Celotex Corporation at or near Wilmington, Ill., to points in Wisconsin, for 180 days. SUPPORTING

SHIPPER: Mr. Charles W. Jarvis, Supervisor Truck Transporation, The Celotex Corporation, 1500 N. Dale Mabry, Tampa, Fla. 33607. SEND PROTESTS TO: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 138743 (Sub-No. 4TA), filed February 7, 1974. Applicant: SNOWBALL, LTD., P.O. Box 361, Morton, Ill. 61550. Applicant's representative: Jacob P. Billig, 1126 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, conduit, cement containing asbestos fiber, and accessories* for the installation thereof, from the plantsite and storage facilities of Certain-Teed Products Corp. at Hillsboro, Tex., to points in Arkansas, Colorado, Louisiana, and Oklahoma, for 180 days. SUPPORTING SHIPPER: Thomas F. McGrath, General Traffic Manager, Certain-Teed Products Corp., Pipe & Plastics Group, Valley Forge, Pa. 19481. SEND PROTESTS TO: Mr. Richard K. Shullaw, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 139292 (Sub-No. 2 TA), filed February 6, 1974. Applicant: SATURN EXPRESS, INC., 7860 F Street, Omaha, Nebr. 68127. Applicant's representative: Arlyn L. Westergren, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk), as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite of Mid-America Meats, Inc., Omaha, Nebr. to West Point, Miss., and Bessemer and Birmingham, Ala., for 180 days. SUPPORTING SHIPPER: Mid-America Meats, Inc., James D. Nespor, Vice President, Omaha, Nebr. SEND PROTESTS TO: Carroll Russell, District Supervisor, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 139489 TA, filed February 5, 1974. Applicant: GASTON H. BREAZEALE, doing business as BREEZEWAY TRANSPORT, 6110 Hillsdale Avenue, Omaha, Nebr. 68117. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Semi-trailers*, new and used, from Oklahoma City, Okla., to Grand Island, Nebr., and Council Bluffs, Iowa, and from Sioux City, Iowa, to Oklahoma City, Okla., and from Camden, Ark., to Council Bluffs, Iowa, for 180 days. SUPPORTING SHIPPERS: American Semi-Trailer Sales, W. Wray Wehrman, Owner, Box 309, Grand Island, Nebr. 68801; Mid-America Trailer Sales, Inc., Charles Smiley, Vice President, P.O. Box 25546, Oklahoma City, Okla. 73125; and American Semi-Trailers of Iowa, Gaston H. Breazeale, Partner, 1705 W. South Omaha Bridge Road, Council Bluffs, Iowa 51501. SEND PROTESTS TO: District Supervisor Carroll Russell, Bureau of Operations, Interstate Commerce Commission, Suite 620, Union Pacific Plaza, 110 N. 14th Street, Omaha, Nebr. 68102.

By the Commission.

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

[FR Doc.74-4356 Filed 2-22-74;8:45 am]

[Notice 28]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 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.

No. MC 112520 (Sub-No. 281 TA), filed February 11, 1974. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, New Quincy Rd., Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 1107 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Clyattville, Ga., to Palatka, Fla., for 180 days. SUPPORTING SHIPPER: Hudson Pulp & Paper Corp., P.O. Box 919, Palatka, Fla. 32077. SEND PROTESTS TO: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202.

No. MC 113908 (Sub-No. 301 TA), filed February 8, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicants' representative: B. B. Whitehead (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Neutral and distilled spirits and alcohol*, in bulk, from Owensboro, Ky., to Chicago, Ill., for 180 days. SUPPORTING SHIPPER: Fleischmann Distilling Corp., Subsidiary of Standard Brands, Inc., Owensboro, Ky. 42301. SEND PROTESTS TO: John V. Barry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 115311 (Sub-No. 161 TA), filed February 12, 1974. Applicant: J&M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from the plantsite of Temple Industries, Inc., at or near Thomson, Ga., to points in Florida, South Carolina, North Carolina, Virginia, West Virginia, Kentucky, Tennessee, Alabama, and Mississippi, for 180 days. SUPPORTING SHIPPER: Diboll Particleboard Division, Temple Industries, Inc., Diboll, Tex. 75941. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree St. NW., Room 309, Atlanta, Ga. 30309.

No. MC 116446 (Sub-No. 4 TA), filed February 11, 1974. Applicant: HAROLD SCHUGEL, doing business as SCHUGEL MILLING SUPPLIES, 301 North Water Street, New Ulm, Minn. 56073. Applicant's representative: Charles E. Nieman, 1110 Northwestern Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rye middlings and Rye red dog*, from New Ulm, Minn., to Cedar Rapids, Iowa, for 180 days. SUPPORTING SHIPPER: International Multifoods Corporation, 1200 Multifoods Bldg., Minneapolis, Minn. 55402. SEND PROTESTS TO: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 118922 (Sub-No. 11 TA), filed January 28, 1974. Applicant: CARTER TRUCKING CO., INC., P.O. Box 225, Locust Grove, Ga. 30248. Applicant's representative: William Addams, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lawn mowers, snow throwers, tillers and compost-shredder grinders and parts for each and raw materials and supplies* (except commodities in bulk) used in the manufacture and distribution of the above commodities, between the plantsites of McDonough Power Equipment,

Inc., at Ft. Worth, Tex., and McDonough, Ga.; (2) *lawn mowers, snow throwers, tillers and compost-shredder grinders and parts* for each, from the plantsite of McDonough Power Equipment, Inc., Fort Worth, Tex., to points in Alabama, Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Lousiana, Michigan, Minnesota, Missouri, Mississippi, Nebraska, Ohio, Oklahoma, South Dakota, Tennessee, and Wisconsin; and (3) *raw materials and supplies* (except commodities in bulk) used in the manufacture of lawn mowers, snow throwers, tillers and compost-shredder grinders, from the destination states named in (2) above to the plantsite of McDonough Power Equipment, Inc., Fort Worth, Tex., for 180 days.

NOTE.—Applicant presently holds authority to transport the above named commodities, parts and supplies therefore, between the plantsite of McDonough Power Equipment, Inc., at McDonough, Ga., and points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (except points in Maine, New Hampshire, Vermont, Rhode Island, and the District of Columbia).

SUPPORTING SHIPPER: McDonough Power Equipment, Inc., Macon Road, McDonough, Ga. 30253. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 125996 (Sub-No. 46 TA), filed February 12, 1974. Applicant: ROAD TUNNER TRUCKING, INC., P.O. Box 37491, Omaha, Nebr. 68137. Applicant's representative: Arnold L. Burke, 127 No. Dearborn, Suite 1133, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemical* other than in bulk, from the plantsite and warehouse facilities of Monsanto Company at or near Memphis, Tenn., to points in Colorado, South Dakota, North Dakota, Idaho, Montana, Oregon, and Washington, for 180 days. SUPPORTING SHIPPER: Monsanto Company, Richard E. Schrick, Senior Transportation Analyst, 800 N. Lindbergh, St. Louis, Mo. 63166. SEND PROTESTS TO: District Supervisor, Carroll Russell, Bureau of Operations, Interstate Commerce Commission, Suite 620, Union Pacific Plaza, 110 N. 14 St., Omaha, Nebr. 68102.

No. MC 126489 (Sub-No. 22 TA), filed February 8, 1974. Applicant: GASTON FEED TRANSPORTS, INC., P.O. Box 1066, Hutchinson, Kans. 67501. Applicant's representative: Clyde N. Christey, 641 Harrison, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cereal binders, sealing compounds, corn flour, industrial flour, industrial starches and processed grain products* (except animal and poultry feed and feed ingredients and edible flour) from the plantsite and/or storage facilities of McPherson Custom Products, Inc., at or near McPherson, Kans., to points in Minnesota, Iowa, Colorado, Nebraska, Wyoming, North Dakota, South Dakota, and Montana, for 180 days. SUPPORTING SHIPPER: McPherson Custom Products, Inc., 503 West Grant, McPherson, Kans. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 129537 (Sub-No. 11 TA), filed February 12, 1974. Applicant: REEVES TRANSPORTATION COMPANY, Route 5, Dews Pond Road, Calhoun, Ga. 30701. Applicant's representative: John C. Vogt, Jr., 523 E. Madison St., Tampa, Fla. 33602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets and rugs*, from points in Floyd, Bartow, Chattooga, Gordon, Whitfield, Murray, Catoosa, Walker, Troup, and Muscogee Counties, Ga., to points in Duval, Nassau, St. Johns, and Flagler Counties, Fla., for 180 days.

NOTE.—Applicant does not intend to tack but however applicant intends to interline with shipments to other points in Florida which applicant does not have authority to serve at Jackson. SUPPORTED BY: There are approximately 28 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: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Room 309, Atlanta, Ga. 30309.

No. MC 134561 (Sub-No. 1 TA), filed February 11, 1974. Applicant: CORLISS E. THORNHILL, SR., doing business as THORNHILL ENTERPRISES, 23 Corliss Hill Rd., Haverhill, Mass. 01830. Applicant's representative: Herbert Finbury, 55 Ginty Boulevard, Haverhill, Mass. 01830. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives, chemicals, lasts, leather, and paper products* used in the manufacturing of shoes, between points in Hillsboro, Rockingham, and Strafford Counties, N.H., on the one hand, and, on the other, points in Essex and Middlesex Counties, Mass., for 180 days. SUPPORTED BY: There are approximately 7 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 Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Bldg., 55 Pleasant St., Concord, N.H. 03301.

No. MC 135364 (Sub-No. 12 TA), filed February 11, 1974. Applicant: MORWALL TRUCKING, INC., rural delivery No. 3, Box 76–C, Moscow, Pa. 18444. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corrugated cartons, newsprint, four-wheel dollies, walkboards, shipping wardrobes, furniture pads, appliance trucks, aluminum beams, and other interior van equipment used in moving household goods*, from Moosic, Pa., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Maryland, Delaware, Virginia, West Virginia, and the District of Columbia; (2) *newsprint*, from Oshkosh, Wis.; Atlanta, Ga.; St. Louis and Kansas City, Mo.; to Moosic, Pa.; and (3) *furniture pads*, from Petersburg, Va., Tunica and Jackson, Miss., to Moosic, Pa., for 150 days. SUPPORTING SHIPPER: Allied Van Lines, Inc., 25th Avenue and Roosevelt Road, Broadview, Ill. 60153. SEND PROTESTS TO: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 138299 (Sub-No. 2 TA), filed February 11, 1974. Applicant: TRAILS TRUCKING, INC., 719 Union Street, Montebello, Calif. 90640. Applicant's representative: Donald Murchison, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods*, from Portland, Oreg., to points in California, for 180 days. SUPPORTING SHIPPER: Nabisco, Inc., 425 Park Avenue, New York, N.Y. 10022. SEND PROTESTS TO: District Supervisor Philip Yallowitz, Interstate Commerce Commission, Bureau of Operations, 300 N. Los Angeles Street, Room 7708, Los Angeles, Calif. 90012.

No. MC 139493 (Sub-No. 1 TA), filed February 8, 1974. Applicant: LESCO TRANSPORTATION COMPANY, INC., 1140 One Main Place, Dallas, Tex. 75250. Applicant's representative: Chandler L. Van Orman, 704 Southern Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oilfield pipe*, from the plantsite and warehouse facilities of Lone Star Steel Company, at Lone Star, Tex., to points in Louisiana, New Mexico, and Oklahoma, for 180 days. SUPPORTING SHIPPER: Lone Star Steel Company, 2200 West Mockingbird Lane, Dallas, Tex. 75235. SEND PROTESTS TO: Transportation Specialist Gerald T. Holland, Bureau of Operations, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 139499 (Sub-No. 1 TA), filed February 7, 1974. Applicant: U.S. TRANSPORT, INC., P.O. Box 6, Bakersfield, Calif. 93303. Applicant's representative: Michael J. Stecher, 140 Montgomery St., San Francisco, Calif. 94104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel shelving and bins, unassembled pallet racks, storage racks, screw cases, storage cabinets and related items* manu-

factured by Frick-Gallagher Manufacturing Co., from Wellston, Ohio, to points in Arizona, California, Colorado, Oregon, Utah, and Washington, for 180 days. SUPPORTING SHIPPER: Frick-Gallagher Manufacturing Co., Wellston, Ohio. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-4357 Filed 2-22-74;8:45 am]

[Notice 30]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 20, 1974.

Application filed for temporary authority under section 210(a)(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-74990. By application filed February 11, 1974, MILLER'S MOVING AND STORAGE, INC., 403 Cocoa Ave., Hershey, PA 17033, seeks temporary authority to lease the operating rights of RICHARD A. MILLER, doing business as MILLER'S MOVING AND STORAGE, 201 N. Chestnut St., Palmyra, PA 17078, under section 210a(b). The transfer to MILLER'S MOVING AND STORAGE, INC., of the operating rights of RICHARD A. MILLER, doing business as MILLER'S MOVING AND STORAGE, is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-4359 Filed 2-22-74;8:45 am]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

PART 700—UNITED STATES NAVY REGULATIONS

Subpart I—The Senior Officer Present

§ 700.901 The Senior Officer Present.

Unless some other officer has been so designated by competent authority, the "senior officer present" is the senior line officer of the Navy on active duty, eligible for command at sea, who is present and in command of any part of the Department of the Navy in the locality or within an area prescribed by competent authority, except where personnel of both the Navy and the Marine Corps are present on shore and the officer of the Marine Corps who is in command is senior to the senior line officer of the Navy. In such cases, the officer of the Marine Corps shall be the senior officer present on shore.

§ 700.902 Eligibility for Command at Sea.

The term "eligible for command at sea" shall be construed to apply to all male officers of the line of the Navy, including Naval Reserve, on active duty, except those designated for the performance of engineering, aeronautical engineering or special duties, and except those limited duty officers who are not authorized to perform all deck duties afloat.

§ 700.903 Authority and Responsibility.

At all times and places not excluded in these regulations, or in orders from competent authority, the senior officer present shall assume command and direct the movements and efforts of all persons in the Department of the Navy present, when, in his judgment, the exercise of authority for the purpose of cooperation or otherwise is necessary. He shall exercise his authority in a manner consistent with the full operational command vested in the commanders of unified or specified commands.

§ 700.904 Authority of Senior Officer of the Marine Corps Present.

The authority and responsibility of the senior officer present are also conferred upon the senior commanding officer of the Marine Corps present with respect to those units of the Marine Corps, including Navy personnel attached, which are in the locality and not under the authority of the senior officer present.

§ 700.905 Commands Diverted by the Senior Officer Present.

The senior officer present shall not divert a command from an operation or duty assigned by another authority unless the public interest demands. When orders issued by the senior officer present conflict with an operation or duty assigned to a command, the commanding officer of such command shall disclose his orders to the senior officer present, to the extent permitted by the instructions contained therein, in order that the senior officer present may give them due consideration. The senior officer present shall inform a common senior promptly when he has diverted any command from a previously assigned operation or duty and shall release such command when its assistance is no longer required.

§ 700.906 Authority Within Commands.

In the exercise of his authority, the senior officer present normally shall not concern himself with the administrative matters within commands other than his own, except to the extent necessary to secure such uniformity and coordination of effort as may be required.

§ 700.907 Distinctions Ashore.

The responsibilities, authorities, and distinctions of commanders, officers in command, and others of the shore establishment are as stated by superiors or other competent authorities, and are not necessarily dependent upon relative seniority among the individuals concerned.

§ 700.908 To Make Known His Identity as Senior Officer Present.

When doubt may exist or when circumstances require, the senior officer present shall inform all commanding officers concerned in the locality or prescribed geographical area that he is the senior officer present.

§ 700.909 Reports and Calls by Juniors.

All commanding officers shall keep themselves informed of the identity of the senior officer present. The senior commander of each unit present shall inform the senior officer present of the orders under which he is acting to the extent permitted therein and of the condition of his command. When circumstances permit, he shall call upon the senior officer present.

§ 700.910 Concert of Action With Other Armed Forces.

When in the vicinity of other armed forces of the United States or of an ally of the United States, the senior officer present shall maintain, to the extent possible, a complete concert of action with the commander of these forces. He shall cooperate with the commander of such forces in the preparation and execution of plans for such joint action as may be necessary.

§ 700.911 Relations With Diplomatic and Consular Representatives.

The senior officer present, insofar as possible, shall preserve close relations with the diplomatic and consular representatives of the United States. He shall consider recommendations, requests or other communications from such representatives. While due weight should be given to the opinions and advice of such representatives, the senior officer present is solely and entirely responsible for his official acts.

§ 700.912 Communication With Foreign Officials.

(a) As a general rule, when in foreign countries, the senior officer present shall communicate with foreign civil, diplomatic, or consular officials through the local United States diplomatic or consular representatives.

(b) In the absence of a diplomatic or consular representative of the United States, the senior officer present in a foreign country has authority to:

(1) Communicate or remonstrate with foreign civil authorities as may be necessary.

(2) Urge upon citizens of the United States the necessity of abstaining from participation in political controversies or violations of the laws of neutrality.

§ 700.913 Coordination Procedures Established by a Unified or Specified Command.

In areas where the commander of a unified or specified command has established procedures for coordination of military matters affecting United States and host country relationships, the senior officer present shall adhere to such procedures.

§ 700.914 Violations of International Law and Treaties.

On occasions when injury to the United States or to citizens thereof is committed or threatened in violation of the principles of international law or in violation of rights existing under a treaty or other international agreement, the senior officer present shall consult with the diplomatic or consular representatives of the United States, if possible, and he shall take such action as is demanded by the gravity of the situation. In time of peace, action involving the use of force may be taken only in consonance with the provisions of the succeeding article of these regulations. The responsibility for any application of force rests wholly upon the senior officer present. He shall report immediately all the facts to the Secretary of the Navy.

§ 700.915 Use of Force Against Another State.

(a) The use of force in time of peace by United States naval personnel against another nation or against anyone within the territories thereof is illegal except as an act of self-defense. The right of self-defense may arise in order to counter either the use of force or an immediate threat of the use of force.

(b) The conditions calling for the application of the right of self-defense cannot be precisely defined beforehand, but must be left to the sound judgment of responsible naval personnel who are to perform their duties in this respect with all possible care and forbearance. The right of self-defense must be exercised only as a last resort, and then only to the extent which is absolutely necessary to accomplish the end required.

(c) Force must never be used with a view to inflicting punishment for acts already committed.

§ 700.916 Territorial Integrity of Foreign Nations.

The senior officer present shall respect the territorial integrity of foreign nations. Unless permission has been obtained from foreign authorities:

(a) No armed force for exercise, target practice, funeral escort, or other purposes shall be landed.

(b) No persons shall be allowed to visit the shore, except as necessary to conduct official business.

(c) No men shall be landed to capture deserters.

(d) No target practice with guns, torpedoes, rockets, guided missiles, or other weapons shall be conducted within foreign territorial waters or at any point from which projectiles, torpedoes, or missiles may enter therein.

§ 700.917 Dealings With Foreigners.

The senior officer present shall uphold the prestige of the United States. He shall impress upon officers and men that, when in foreign ports, it is their duty to avoid all possible cause of offense to the authorities and inhabitants; that due deference must be shown by them to local laws, customs, ceremonies, and regulations; that moderation and courtesy should be displayed in all dealings with foreigners; and that a feeling of good will and mutual respect should be cultivated.

§ 700.918 Readiness and Safety of Forces.

(a) The senior officer present shall prescribe the conditions of readiness of all the forces present and under his authority.

(b) To the extent which the situation demands, the senior officer present shall be prepared for action and shall guard against surprise attack. With the means at his disposal, he shall put into effect such measures as are necessary to minimize the possibility of the undetected approach of hostile air, surface, or subsurface forces.

(c) The senior officer present is responsible for the safety of the units in company and, at sea, shall direct the course to be steered and the disposition to be employed. Nothing in this article will be construed as abrogating the authority of the commander of a task force or task command.

§ 700.919 Information Furnished to Subordinates.

Before engaging in any operation in time of war, if practicable, the senior officer present shall supply the commanding officers present with his operation plan and battle plan and shall communicate to the principal subordinates present such information as will assist them if called upon to assume command.

§ 700.920 Protection of Commerce of the United States.

Acting in conformity with the international law and treaty obligations, the senior officer present shall protect, insofar as lies within his power, all commercial craft of the United States in their lawful occupations; and he shall advance the commercial interests of this country.

§ 700.921 Leave and Liberty.

Subject to such orders as he may have received from competent authority, the senior officer present shall regulate leave and liberty.

§ 700.922 Shore Patrol.

(a) When liberty is granted to any considerable number of persons, except in an area that can absorb them without danger of disturbance or disorder, the senior officer present shall cause to be established, temporarily or permanently, in charge of an officer, a sufficient patrol of officers, petty officers, and noncommissioned officers to maintain order and suppress any unseemly conduct on the part of any person on liberty. The senior patrol officer shall communicate with the chief of police or other local officials and make such arrangements as may be practicable to aid the patrol in carrying out its duties properly. Such duties may include providing assistance to military personnel in relations with civil courts and police, arranging for release of service personnel from civil authorities to the parent command, and providing other services that favorably influence discipline and morale.

(b) A patrol shall not be landed in any foreign port without first obtaining the consent of the proper local officials. Tact must be used in requesting permission; and, unless it is given willingly and cordially, the patrol shall not be landed. If consent cannot be obtained, the size of liberty parties shall be held to such limits as may be necessary to render disturbances unlikely.

(c) Officers and men on patrol duty in a foreign country normally should not be armed. In the United States, officers and men may be armed as prescribed by the senior officer present.

(d) No officer or man who is a member of the shore patrol or beach guard, or is assigned in support thereof, shall partake of or indulge in any form of intoxicating beverage or other form of intoxicant while on duty, on post, or at other times prescribed by the senior patrol officer. The senior patrol officer shall ensure that the provisions of this paragraph are strictly observed and shall report promptly in writing to the senior officer present all violations of these provisions that may come to his notice. All officers and men of the patrol shall report to the senior patrol officer all violations of the provisions of this paragraph on the part of those under them.

§ 700.923 Precautions for Health.

The senior officer present shall take precautions to preserve the health of the persons under his authority. He shall obtain information regarding the healthfulness of the area and medical facilities available therein and shall adopt such measures as are required by the situation.

§ 700.924 Medical or Dental Aid to Persons Not in the Naval Service.

The senior officer present may require the officers of the Medical Corps and Dental Corps under his authority to render emergency professional aid to persons not in the naval service when such aid is necessary and demanded by the laws of humanity or the principles of international courtesy.

§ 700.925 Assistance to Persons, Ships and Aircraft in Distress.

(a) Insofar as he can do so without serious danger to his ship or crew, the commanding officer or the senior officer present as appropriate shall:

(1) Proceed with all possible speed to the rescue of persons in distress if informed of their need for assistance, insofar as such action may reasonably be expected of him.

(2) Render assistance to any person found at sea in danger of being lost.

(3) Afford all reasonable assistance to distressed ships and aircraft.

(4) Render assistance to the other ship, after a collision, to her crew and passengers and, where possible, inform the other ship of his identity.

(b) Actions taken pursuant to this article shall be promptly reported to the Chief of Naval Operations and other appropriate superiors.

(c) The accounting for rendering assistance and repairs pursuant to this article shall be as prescribed by the Comptroller of the Navy.

§ 700.926 Admiralty Claims.

Admiralty claims for or against the United States involving Navy ships and craft shall be processed and disposed of in accordance with the procedures set forth in the Manual of the Judge Advocate General of the Navy.

§ 700.927 Repairs to Merchant Vessels.

(a) There is no authority to effect repairs to a merchant vessel in collision with a Navy ship or craft except:

(1) When specifically approved by Congress.

(2) When, in the opinion of the senior officer present, the exigencies of war or of national defense so require.

(3) When, in the opinion of the senior officer present, repairs are necessary to save life or to prevent the merchant vessel from sinking.

(b) A report of repairs effected under authority of this article, including labor and material costs and a certification by the senior officer present as to why such repairs were undertaken, will be included in the senior officer present's report or forwarding endorsement to the Chief of Naval Operations and other appropriate superiors.

§ 700.928 Detail of Subordinate To Perform Administrative Duties.

When no officer has been detailed by other competent authority to perform administrative duties, the senior officer present may detail a subordinate officer to carry out the routine administrative duties of the senior officer present, but in no way shall such detail relieve the senior officer present of his responsibilities.

§ 700.929 The Senior Officer Present Afloat.

Unless some other officer has been so designated by competent authority, the "senior officer present afloat" is the senior line officer of the Navy, on active service, eligible for command at sea, who is present and with primary duty as commander of any unit or force of the Operating Forces of the Navy in the locality or within an area prescribed by

competent authority, whether afloat or based ashore, except such units as may be assigned to shore commands by competent authority.

§ 700.930 Relations Between the Senior Officer Present and the Senior Officer Present Afloat.

(a) When the senior officer present afloat is not the senior officer present, all matters affecting the units under the authority of the senior officer present afloat shall normally be referred to him by the senior officer present for appropriate action.

(b) When an officer of the Marine Corps is the senior officer present on shore, and senior to the senior officer present afloat, the latter shall refer all matters, except those directly connected with units under his authority, to the former for appropriate action.

§ 700.931 General Duties of the Senior Officer Present Afloat.

As the common superior of commanders of all Navy units of the Operating Forces of the Navy in a locality, except such units as may be assigned to shore commands by competent authority, the senior officer present afloat is responsible for matters which affect these naval commands collectively. In the exercise of his authority, he normally shall not concern himself with the administrative matters within commands other than his own, except to the extent necessary to secur such uniformity and coordination of effort as may be required. In case of emergency or enemy attack, subject to the orders of the senior officer present, he shall assume command of all Navy units of the Operating Forces of the Navy present.

§ 700.932 Relations With Commanders Ashore.

When within the prescribed limits of authority of the commandant of a naval district or the commander of a naval shore activity, the senior officer present afloat and all other commanders of Navy units of the Operating Forces of the Navy present shall conform to the standing orders of such authority in all matters of common interest. Even though senior to the commandant or commander, the senior officer present afloat shall make no changes in local orders, plans, and arrangements, except as necessary to carry out his duties or for other causes which unquestionably demand a change, and then only after consultation with the commandant or commander, if practicable.

§ 700.933 Juniors To Obtain Permission From the Senior Officer Present.

A junior in command shall when meeting a senior at sea or in port, obtain permission by signal or otherwise to continue on duty assigned, to anchor or get underway, or to perform any evolution or other act of importance.

§ 700.934 Authority To Alter Organization.

The senior officer present afloat may organize the forces present under his command into such task organizations as he may deem desirable, but in so doing, he shall preserve their existing tactical organization insofar as practicable.

§ 700.935 Exercise of Power of Consul.

When upon the high seas or in any foreign port where there is no resident consul of the United States, the senior officer present afloat has the authority to exercise all powers of a consul in relation to mariners of the United States.

§ 700.936 File of the Senior Officer Present Afloat.

(a) While in port, the senior officer present afloat shall require that a file of all orders issued by him or other competent authority which are applicable to the naval forces present be maintained. This file shall be transferred to the succeeding senior officer present afloat.

(b) Whenever circumstances warrant and for any continuity purposes, the senior officer present afloat may detail a subordinate officer to carry out routine administrative duties and maintain a SOPA (Administration) file. In event a subordinate officer is not available or it is not appropriate for such detailing, the senior officer present afloat may arrange for the detail of an officer for the task.

§ 700.937 Medical, Dental, Communication, and Other Guard.

When two or more ships are in the vicinity of each other while liberty is being granted, the senior officer present afloat shall designate the daily order in which each ship having a medical officer shall take the medical guard unless facilities or services are available ashore or other adequate provision has been made. Similar provisions shall be made with respect to the establishment of a dental guard, communication guard, shore patrol, or any other guard as may be necessary in support of his responsibility.

§ 700.938 Responsibilities of Subordinates.

The regulations contained in this chapter shall not be construed to relieve commanders junior to the senior officer present, or the senior officer present afloat from their individual responsibilities in relation to their commands.

§ 700.939 Boarding Calls.

(a) When he considers it appropriate, the senior officer present shall send an officer to board and report on ships and craft displaying United States colors found in or arriving at foreign ports.

(b) The following information normally shall be obtained by boarding officers:

(1) Name, nationality, owner, and type of craft.

(2) Number and names of persons in crew.

(3) Tonnage and cargo.

(4) Place from and time out of port.

(5) Probable date of departure and destination.

(6) Unusual events during passage, general route taken, and weather conditions encountered.

(c) Under ordinary circumstances the boarding officer can offer assistance in United States postal matters and provide medical and technical advice.

§ 700.940 Granting of Asylum and Temporary Refuge.

(a) If an official of the Department of the Navy is requested to provide asylum or temporary refuge, the following procedures shall apply:

(1) On the high seas or in territories under exclusive United States jurisdiction (including territorial seas, territories and possessions):

(i) At his request, an applicant for asylum will be received on board any naval aircraft or water-borne craft or naval station.

(ii) Under no circumstances shall the person seeking asylum be surrendered to foreign jurisdiction or control, unless at the direction of the Secretary of the Navy or higher authority. Persons seeking asylum should be afforded every reasonable care and protection permitted by the circumstances.

(2) In territories under foreign jurisdiction (including territorial seas, territories, and possessions):

(i) Temporary refuge shall be granted for humanitarian reasons on board a naval aircraft or water-borne craft or naval station only in extreme or exceptional circumstances wherein the life or safety of a person is put in danger, such as pursuit by a mob. When temporary refuge is granted, such protection shall be terminated only when directed by the Secretary of the Navy or higher authority.

(ii) While temporary refuge can be granted in the circumstances set forth above, permanent asylum will not be granted.

(iii) Requests for asylum shall be referred to the U.S. Embassy, if any, in the foreign jurisdiction. Individuals requesting asylum shall be afforded temporary refuge only in the circumstances outlined in subparagraph (1).

(3) The Chief of Naval Operations or Commandant of the Marine Corps, as appropriate, will be informed by the most expeditious means of all action taken pursuant to a. and b. above as well as the attendant circumstances. The appropriate U.S. Embassy or consular post will be similarly informed of actions taken pursuant to subparagraph 1.b.(3) of this article. The Chief of Naval Operations or Commandant of the Marine Corps will cause the Secretary of the Navy and Department of State to be notified without delay.

(b) Personnel of the Department of the Navy shall neither directly nor indirectly invite persons to seek asylum or temporary refuge.

CUMULATIVE LIST OF PARTS AFFECTED—FEBRUARY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during February.

1 CFR — Page

305 — 4846
310 — 4846

3 CFR

EXECUTIVE ORDERS:
July 2, 1910 (revoked in part by PLO 5415) — 6519
Oct. 22, 1912 (revoked in part by PLO 5412) — 6518
May 27, 1913 (revoked in part by PLO 5412) — 6518
3972 (revoked in part by PLO 5413) — 6518
11768 — 6693
11767 — 6603
11686 (superseded by EO 11769) — 7125
11769 — 7125
11770 — 7127

PROCLAMATIONS:
809 (revoked in part by PLO 5413) — 6518
1334 (revoked in part by PLO 5413) — 6518
1362 (Revoked in part by PLO 5409) — 5488
4262 — 4061
4263 — 4659
4264 — 4865
4265 — 4867
4266 — 5173
4267 — 5175
4268 — 5177
4269 — 7123

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:
MEMORANDA:
Dec. 20, 1973 — 4463
Jan. 21, 1974 — 5179
Jan. 28, 1974 — 5181

4 CFR

PROPOSED RULES:
10 — 5201

5 CFR

213 — 4869, 5619
752 — 4063, 5183, 6515
930 — 4064

PROPOSED RULES:
890 — 5640

6 CFR

Rulings — 4665
150 — 4064, 4557, 5183, 5117, 5318, 5747, 6528, 6529, 6611, 7177
152 — 4065, 4577, 4558, 5317, 5318, 5747, 6528, 6529, 6611
155 — 4869

PROPOSED RULES:
150 — 5787

7 CFR

2 — 6715
30 — 5299
68 — 4749
240 — 5481
250 — 5183
301 — 5481, 6719
401 — 5303
660 — 4749
722 — 6719
723 — 4558
724 — 4560, 4563
726 — 4565
862 — 4750
905 — 6605
907 — 4465, 4869, 5775, 6719
910 — 4870, 5776, 6720
928 — 5184
987 — 7135
1063 — 6515
1421 — 4566, 5184
1424 — 5776
1427 — 5185
1475 — 4567
1800 — 5305, 5307
1804 — 6720
1823 — 4870

PROPOSED RULES:
26 — 4640
910 — 4067
924 — 6535
927 — 5320
980 — 4580
991 — 6118
1001 — 5642
1002 — 5642, 6535
1004 — 5642, 6535
1006 — 7179
1011 — 4483
1012 — 7179
1013 — 4925, 7179
1015 — 5642
1033 — 5642
1036 — 5642
1040 — 5642
1049 — 5642
1098 — 6614
1421 — 6535
1464 — 5777
1701 — 6536

9 CFR

71 — 4465
73 — 5186, 6695
76 — 5186, 5620, 5748
78 — 4465
91 — 6049
123 — 5307
318 — 6695
381 — 4466, 4568, 6695
335 — 4067

PROPOSED RULES:
201 — 4667
317 — 7181
381 — 4113, 7181

10 CFR

11 — 5620
50 — 4871, 5773
115 — 5773
140 — 5310
205 — 6530
210 — 4466, 5311, 6531
211 — 4450, 4466, 4871, 5775, 6531, 6533
212 — 4450, 4466, 4784, 5775, 6532, 6533
523 — 5748
545 — 5750
563 — 5752
584 — 6538
Rulings — 5310, 6111

PROPOSED RULES:
2 — 4582
31 — 4583
32 — 4583
50 — 4582
70 — 4930
150 — 4930
211 — 4592
212 — 7176

12 CFR

4 — 5137
22 — 7129
208 — 5482
339 — 4756, 5748
522 — 5626
523 — 5748
545 — 5750
555 — 7129
563 — 5752
571 — 6696

PROPOSED RULES:
212 — 6132
206 — 4487
545 — 4594, 5199, 5324
563 — 5200, 5325
563b — 4594
571 — 5325
584 — 6538
701 — 6132

13 CFR

101 — 4468
116 — 6056
121 — 5626

14 CFR

39 — 4074, 4075, 4756, 4757, 5483, 5754, 6056, 7163, 7164
71 — 4075, 4570, 5187, 5484, 5627, 6516, 6606, 6696
73 — 6059
75 — 6059
91 — 6516
97 — 4075, 5485, 5754, 6606
232 — 4469
241 — 5756, 6607

PROPOSED RULES:
Ch. I — 5785
39 — 4927, 4928, 5639
61 — 5502
67 — 5502
71 — 4485, 4581, 4667, 4928, 5503, 5640, 6122–6124, 6537
73 — 5503, 6124, 6125
91 — 6538
121 — 5502
127 — 5502
129 — 6619
152 — 5784, 6674
183 — 5502
207 — 4670
208 — 4670
212 — 4670
214 — 4670
244 — 4930

15 CFR Page

377 5311
903 6059
1000 4871

16 CFR

4 4661
13 4469, 4758, 4873–4876, 6696, 7164
15 6696
302 4852
1115 6061
1500 4469

PROPOSED RULES:

302 4855
502 4887
1700 5197

17 CFR Page

230 6069
249 6069

PROPOSED RULES:

240 5204
249 5204
270 5209, 5506
274 5506
275 5209

18 CFR

101 6073, 6094
104 6078, 6097
141 4473, 6082, 6106
154 5312
201 6082, 6100
204 6087, 6103
260 4473, 6092, 6106

PROPOSED RULES:

Ch. I 4671, 7182
141 5200
260 5200

19 CFR

1 4876, 5312, 5777
4 4876, 6107
16 6516
19 4876

PROPOSED RULES:

1 4580, 5777
4 7179
6 5320

20 CFR

405 4661

PROPOSED RULES:

146 4785
404 6536
405 5324, 6725
416 4115, 4483, 4785, 5778

21 CFR

1 5627
2 7165
15 5188
17 5188
19 4076, 4760, 6109
45 5764
51 5760
121 4077, 5313, 5628, 5765, 7166
125 5313
130 4078, 6620
135 7166
135b 4475, 4759
135c 4759, 5190, 7167
135e 4475
135f 4475
141e 4570
148e 4570

21 CFR—Continued Page

PROPOSED RULES:

1 7288
51 5777
55 5643
121 5197, 7181
128 5197
128c 4113
133 5197
600 4113
610 4113
640 4113

22 CFR

51 6696

23 CFR

765 4078
772 6696

24 CFR

0 4089
203 4089
207 4089, 5767
220 4089
300 4661
1914 4090, 4091, 4877–4879, 5767–5770, 6517, 7168–7170
1915 4092, 4093, 5496, 6050, 7171
1931 4094
1934 6607
2200 6697
2201 6697

PROPOSED RULES:

50 6816
1272 4484
1276 5723

25 CFR

221 5628

PROPOSED RULES:

33 6117

26 CFR

1 6607
12 4476
301 4476

PROPOSED RULES:

1 4482, 6614
301 4482

27 CFR

47 4760

28 CFR

0 4080
19 4736

PROPOSED RULES:

20 5636

29 CFR

96 5900
102 4080
520 4478
570 4478, 4760
694 6607
1910 6109
1928 4925
1952 4661
1953 5629
1999 6119

PROPOSED RULES:

601 5329
613 5329
657 5329
673 5329

29 CFR—Continued Page

PROPOSED RULES—Continued

675 5329
678 5329
690 5329
699 5329
720 5329
727 5329
728 5329
729 5329
1928 4536
1953 5328
1999 6119
2201 4674, 5204

30 CFR

75 7175
77 7175

PROPOSED RULES:

75 6118
77 6118
260 4108

31 CFR

315 5313
341 4661

32 CFR

700 7135
872 5485
888 6607
888d 4477
1466 4571
1472 4571
1709 6705
1710 6705

32A CFR

Ch. VI:

DPS Reg. 1 4478

PROPOSED RULES:

Ch. X 5193, 5639

33 CFR Page

110 4478, 5314
117 4479, 5314, 6110, 6607
127 6608
177 5488

PROPOSED RULES:

117 6618, 6619
209 6113
401 5794

35 CFR

5 4880

PROPOSED RULES:

133 4931

38 CFR

3 5314
21 5315

PROPOSED RULES:

2 5211
3 4673
17 5211
110 4484
117 4485

39 CFR

122 5488
447 4081

40 CFR

35 5252
52 4081, 4082, 4662, 4880, 4882, 4883, 7270
87 4884
180 4663, 5765, 6518, 6608, 6705

40 CFR—Continued

	Page
203	6670
401	4532
411	6590
412	5704
422	6580
424	6806
426	4760, 5712
428	6660

PROPOSED RULES:

52	4116, 4485, 5198, 5324, 5503, 5504, 5791, 6126, 6130, 6726–6729
120	4485
171	6730
180	6736
401	4487
402	4487
405	4117
408	4708
410	4628
411	6595
412	5709
420	6484
422	6586
424	6813
426	5720
428	6667
430	6619

41 CFR

3–3	6609
5A–10	6609
5A–19	6721
8–12	5315
15–60	4670
60–2	5630
60–60	5630
101–4	6110
101–18	4663
101–26	5765

PROPOSED RULES:

3–1	6119
3–4	6119
3–16	6119
8–2	5326
8–7	5327
8–18	5326
101–17	4888
101–18	4894
101–19	4905
101–20	4912
101–21	4922
101–22	4924
101–23	4924
101–24	4924

42 CFR

	Page
50	4730, 5315
57	4770, 4775, 4778

43 CFR

421	4755
1820	5633

PUBLIC LAND ORDERS

924 (revoked in part by PLO 5409)	5488
5174 (amended by PLO 5411)	5632
5179 (amended by PLO 5411)	5632
5180 (amended by PLO 5411)	5632
5184 (amended by PLO 5411)	5632
5192 (amended by PLO 5411)	5632
5193 (amended by PLO 5411)	5632
5250 (amended by PLO 5411)	5632
5251 (amended by PLO 5411)	5632
5255 (amended by PLO 5411)	5632
5408	5316
5409	5488
5410	5488
5411	5632
5412	6518
5413	6518
5414	6519
5415	6519

PROPOSED RULES:

3300	4105
4112	5193
5400	5502
5420	5502

45 CFR

205	4733, 5316
233	5316
248	5552
249	5552
602	4664
1207	5770

PROPOSED RULES:

118	5321
233	4114
234	5323
250	5324
401	5248
1302	6723

46 CFR

PROPOSED RULES:

528	6738

47 CFR

0	4571, 5912
2	5912, 6706, 7130
21	7134
73	4571, 4574, 4885, 5585, 5774, 6610, 6707
76	6707

47 CFR—Continued

	Page
81	5488
83	4578, 5488
87	5316, 6706
89	7134
93	7134

PROPOSED RULES:

1	6620
2	4931, 6220
17	6130
21	6620, 6737
73	4117, 4586, 4592, 4670, 4671, 5641, 6620, 7181
89	4931
15–60	4760

49 CFR

1	4082, 5766
85	4083, 5190
555	5489
571	4087, 4578, 4664, 5190, 5489, 6708
573	4578
574	5190
575	4087
1003	6711
1033	4087, 4088, 4479, 4579, 4665, 4781, 4783, 5489, 6610
1057	6519
1085	4784
1131a	6711
1240	5766
1249	5766

PROPOSED RULES:

174	4668
192	6126
215	6619
230	4929
571	4116, 4670, 6538
573	6125
575	4116
1057	4488, 4787
1100	6738
1125	7182
1310	4787

50 CFR

18	7262
28	4656, 5316, 5634, 6111, 6526, 6528, 6713, 6714, 7176
29	5490
33	4886, 5317, 5634, 5635, 6527–6528, 6714, 6715
216	5635
240	5635
245	5491

FEDERAL REGISTER PAGES AND DATES—FEBRUARY

Pages	Date
4055–4455	Feb. 1
4457–4549	4
4551–4649	5
4661–4741	6
4743–4857	7
4859–5166	Feb. 8
5167–5292	11
5293–5471	12
5473–5578	13
5579–5740	14
5741–6041	Feb. 15
6043–6505	19
6507–6596	20
6597–6685	21
6687–7116	22
7117–7292	25

federal register

MONDAY, FEBRUARY 25, 1974
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Volume 39 ■ Number 38

PART II

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

■

MARINE MAMMALS

Protection

Title 50—Wildlife and Fisheries

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

PART 18—MARINE MAMMALS

Regulations were published in the FEDERAL REGISTER of December 21, 1972 (37 FR 28173–28177) to implement the Marine Mammal Protection Act of 1972 (86 Stat. 1027). Although these were final rules, comments, suggestions and objections were invited for a sixty-day period until February 21, 1973. These comments, suggestions and objections resulted in the proposed rulemaking which was published in the FEDERAL REGISTER of August 16, 1973 (38 FR 22143). Comments were invited to November 1, 1973.

These regulations must be read together with the regulations published on August 15, 1973, 38 FR 22015 and January 4, 1974, 39 FR 1157. Those regulations provide procedures for all permit applications, for civil penalty proceedings, for the entry of wildlife through designated ports, and for other aspects of clearance. All of these regulations form Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations. The regulations, when read together, provide a comprehensive system of rules regarding wildlife under the jurisdiction of the Bureau of Sport Fisheries and Wildlife.

The deletions, additions and minor changes in this final rulemaking (i) reflect comments received, (ii) correct certain technical errors and omissions and (iii) provide clarity and uniformity.

The regulations of the Department of Commerce and Interior are virtually identical in format and substance.

The following changes have been made:

1. Section 18.14—Provides a method for establishing that a marine mammal was taken prior to December 21, 1972. The Act and these regulations do not apply to such marine mammals.

2. Section 18.23—This section now allows non-native agents to deal in marine mammal products as middlemen, where the product is being transferred between natives.

3. Section 18.26—There were several comments regarding the inclusion of the collection of marine mammal parts, such as walrus ivory or whalebone, in the definition of "taking," thereby prohibiting such collection without a permit. The definition of taking has not been modified, but a new provision is added to allow such collection if the items are registered with an agent.

4. Section 18.32—This section provided methods of applying for economic hardship permits. Since the economic hardship exemption provision expired on October 21, 1973, as provided for in the Act, this section has been deleted.

5. Section 18.33 and 18.34—Renumbered as §§ 18.32 and 18.33 to conform with the deletion of the Undue Economic Hardship § 18.32.

In addition to the changes discussed above, it has been determined to propose a list of items which qualify as "authentic native articles of handicrafts and clothing." However, since this would involve new material, which was not covered by the proposed rulemaking of August 16, 1973, it will be published as a proposal in the FEDERAL REGISTER in the immediate future, with opportunity for public comment.

The changes in these regulations suggested by the original notice of proposed rulemaking (38 FR 22143) and the changes adopted in this rulemaking involve primarily relaxations of various restrictions. Considering the long period during which the public has had actual notice of these changes, and considering the importance of making these rules effective as soon as possible for public convenience, it has been determined that there is good cause to make this rulemaking effective upon publication pursuant to 5 U.S.C. 553.

Effective date: These regulations become effective on February 15, 1974.

Date: February 15, 1974.

LYNN A. GREENWALT,
Director, Bureau of Sport Fisheries and Wildlife.

Subpart A—Introduction

Sec.

18.1 Purpose of regulations.
18.2 Scope of regulations.
18.3 Definitions.
18.4 Other laws and regulations.

Subpart B—Prohibitions

18.11 Prohibited taking.
18.12 Prohibited importation.
18.13 Prohibited uses, possession, transportation, and sales.
18.14 Marine Mammals taken before the Act.

Subpart C—General Exceptions

18.21 Actions permitted by international treaty, convention, or agreement.
18.22 Taking by State or local government officials.
18.23 Native exceptions.
18.24 Taking incidental to commercial fishing operations.
18.25 Exempted marine mammals or marine mammals products.
18.26 Collection of certain dead marine mammal parts.

Subpart D—Special Exceptions

18.31 Scientific research permits and public display permits.
18.32 Waiver of the Moratorium [Reserved].
18.33 Procedures for issuance of permits and modification, suspension, or revocation thereof.

Subpart E—Depleted Species or Stocks

[Reserved]

AUTHORITY: Marine Mammal Protection Act of 1972, 86 Stat. 1027 (16 U.S.C. 1361–1407).

Subpart A—Introduction

§ 18.1 Purpose of regulations.

The regulations contained in this part implement the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), which among other things, restricts the taking, possession, transportation, selling, offering for sale, and importing of marine mammals.

§ 18.2 Scope of regulations.

(a) This Part 18 applies solely to marine mammals and marine mammal products as defined in § 18.3. For regulations under the Act with respect to cetacea (whales and porpoises), pinnipedia, other than walrus (seals and sea lions), see 50 CFR Part 216.

(b) The provisions in this part are in addition to, and are not in lieu of, other regulations of this subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife. (See also Part 13 of this subchapter.)

§ 18.3 Definitions.

In addition to definitions contained in the Act and in Part 10 of this subchapter, and unless the context otherwise requires, in this Part 18:

"Act" means the Marine Mammal Protection Act of 1972, 86 Stat. 1027, 16 U.S.C. 1361–1407; Pub. L. 92–522.

"Alaskan Native" means a person defined in the Alaska Native Claims Settlement Act [43 U.S.C. section 1603(b) (85 Stat. 588)] as a citizen of the United States who is of one-fourth degree or more Alaska Indian (including Tsimshian Indians enrolled or not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or combination thereof. The term includes any Native, as so defined, either or both of whose adoptive parents are not Natives. It also includes, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or town of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any Native village or Native town. Any citizen enrolled by the Secretary pursuant to section 5 of the Alaska Native Claims Settlement Act shall be conclusively presumed to be an Alaskan Native for purposes of this part.

"Authentic native articles of handicrafts and clothing" means items made by an Indian, Aleut, or Eskimo which (a) were commonly produced on or before December 21, 1972, and (b) are composed wholly or in some significant respect of natural materials, and (c) are significantly altered from their natural form and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or similar mass copying devices. Improved methods of production utilizing modern implements such as sewing machines or modern techniques at a tannery registered pursuant to § 18.23(c) may be used so long as no large scale mass production industry results. Traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacing, beading, drawing, and painting. The formation of traditional native groups, such as cooperatives, is permitted so long as no large scale mass production results.

"Commercial fishing operation" means the lawful harvesting of fish from the marine environment for profit as part of an on-going business enterprise. Such term shall not include sport fishing activities whether or not carried out by charter boat or otherwise, and whether or not the fish so caught are subsequently sold.

"Endangered species" means a species of marine mammal listed as "endangered" pursuant to the Endangered Species Act of 1973, 87 Stat. 884, Pub. L. 93-205 (See Part 17 of this subchapter).

"Incidental catch" means the taking of a marine mammal (a) because it is directly interfering with commercial fishing operations, or (b) as a consequence of the steps used to secure the fish in connection with commercial fishing operations: *Provided, however,* That a marine mammal so taken must immediately be returned to the sea with a minimum of injury; and *Provided, further,* That the taking of a marine mammal which otherwise meets the requirements of this definition shall not be considered as incidental catch of that mammal if it is used subsequently to assist in commercial fishing operations.

"Marine mammal" means specimens of the following species, whether alive or dead, and any part thereof, including but not limited to, any raw, dressed, or dyed fur or skin:

Scientific name	*Common name*
Ursus maritimus	Polar Bear
Enhydra lutris	Sea Otter
Odobenus rosmarus	Walrus
Dugong dugong	Dugong
Trichechus manatus	West African manatee
Trichechus inunguis	West Indian manatee
Trichechus senegalensis	Amazonian manatee

NOTE: Common names given may be at variance with local usage, they are not required to be provided by the Act, and they have no legal significance.

"Native village or town" means any community, association, tribe, band, clan, or group.

"Pregnant" means pregnant near term.

"Subsistence" means the use by Alaskan Natives of marine mammals taken by Alaskan Natives for food, clothing, shelter, heating, transportation, and other uses necessary to maintain the life of the taker or for those who depend upon the taker to provide them with such subsistence.

"Take" means to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal, including, without limitation, any of the following: The collection of dead animals or parts thereof; the restraint or detention of a marine mammal, no matter how temporary; tagging a marine mammal; or the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in the disturbing or molesting of a marine mammal.

"Threatened species" means a species of marine mammal listed as "threatened" pursuant to the Endangered Species Act of 1973, 87 Stat. 884, Pub. L. 93-205.

"Wasteful manner" means any taking or method of taking which is likely to result in the killing or injuring of marine mammals beyond those needed for subsistence purposes or for the making of authentic native articles of handicrafts and clothing or which results in the waste of a substantial portion of the marine mammal and includes without limitation the employment of a method of taking which is not likely to assure the capture or killing of a marine mammal, or which is not immediately followed by a reasonable effort to retrieve the marine mammal.

§ 18.4 Other laws and regulations.

(a) (See 50 CFR 10.3 in regards to other Federal laws and regulations).

(b) Section 109 of the Act provides that on or after December 21, 1972, no State may adopt any law or regulation, or enforce any existing law or regulation, which relates to the taking of marine mammals or which in effect nullifies an exemption or exception created by the Act, unless such laws or regulations have been previously reviewed by the Secretary and determined by him to be consistent with the provisions of the Act and the regulations in this part. In no event, however, will the Secretary approve any State laws or regulations which:

(1) Purport to authorize a State to issue permits in situations which would require a Federal permit under the Act, unless and until appropriate Federal regulations have been issued under section 103 of the Act, and where appropriate, the Secretary has waived the moratorium on such taking or importation under section 101(a)(3) of the Act; or

(2) Purport to authorize a State to issue permits for scientific research or for public display (except that a State may, under authority of a general scientific research permit granted by the Secretary to it, assign individual scientific research permits to State employees or representatives of State universities or other State agencies, subject to the provisions of the general permit); or

(c) Any State may obtain a review and determination of its existing laws and regulations from the Secretary by submitting a written request to that effect to the Director accompanied by the following documents, unless otherwise specified by the Director:

(1) A complete set of laws and regulations to be reviewed, certified as complete, true and correct, by the appropriate State official;

(2) A scientific description by species and population stock of the marine mammals to be subjected to such laws and regulations;

(3) A description of the organization, staffing and funding for the administration and enforcement of the laws and regulations to be reviewed;

(4) A description, where such laws and regulations provide for discretionary authority on the part of State officials to issue permits, of the procedures to be used in granting or withholding such permits and otherwise enforcing such laws; and

(5) Such other materials and information as the Secretary may request or which the State may deem necessary or advisable to demonstrate the compatibility of such laws and regulations with the policy and purposes of the Act and the rules and regulations issued thereunder.

(d) In making a determination with respect to any State laws and regulations, the Secretary shall take into account:

(1) Whether such laws and regulations are consistent with the purpose and policies of the Act and the rules and regulations issued thereunder;

(2) The extent to which such laws and regulations are consistent with, or constitute an integrated management or protection program with, the laws and regulations of other jurisdictions whose activities may affect the same species or stocks or marine mammals; and

(3) The existence of or preparations for an overall State program regarding the protection and management of marine mammals to which the laws and regulations under review relate.

(e) To assist States in preparing laws and regulations relating to marine mammals, the Secretary will also, at the written request of any State, make a preliminary review of any such proposed laws or regulations. Such review will be strictly advisory in nature and shall not be binding upon the Secretary. Upon adoption of previously reviewed laws and regulations, the same shall be subject to a complete review for a final determination pursuant to these regulations. To be considered for preliminary review, all legislative and regulatory proposals must be forwarded to the Director and certified by the appropriate State official. In addition, they shall be accompanied to the extent available with the same materials required under paragraph (c) above, unless otherwise provided by the Secretary.

All determinations by the Secretary (other than as a result of preliminary reviews of proposed laws and regulations) shall be final.

(f) The implementation and enforcement of all State laws and regulations previously approved by the Secretary pursuant to this section shall be subject to continuous monitoring and review by the Secretary pursuant to such rules and regulations as he may adopt. Any modifications, amendments, deletions or additions to laws or regulations previously approved shall be deemed to be new laws and regulations for the purposes of these regulations and shall require review and approval by the Secretary before their adoption.

(g) Notwithstanding the foregoing, nothing herein shall prevent (1) the tak-

ing of a marine mammal by a State or local government official pursuant to § 18.22 of the regulations in this part, or (2) the adoption or enforcement of any law or regulation relating to any marine mammal taken or imported prior to the effective date of the Act.

Subpart B—Prohibitions

§ 18.11 Prohibited taking.

Except as otherwise provided in Subparts C and D of this Part 18, it is unlawful for:

(a) Any person, vessel, or conveyance subject to the jurisdiction of the United States to take any marine mammal on the high seas, or

(b) Any person, vessel, or conveyance to take any marine mammal in waters or on lands under the jurisdiction of the United States.

§ 18.12 Prohibited importation.

(a) Except as otherwise provided in Subparts C and D of this Part 18, it is unlawful for any person to import any marine mammal or marine mammal product into the United States.

(b) Regardless of whether an importation is otherwise authorized pursuant to Subparts C and D of this Part 18, it is unlawful for any person to import into the United States any:

(1) Marine mammal: (i) Taken in violation of the Act, or (ii) Taken in another country in violation of the laws of that country;

(2) Any marine mammal product if: (i) The importation into the United States of the marine mammal from which such product is made would be unlawful under subparagraph (1) of this paragraph, or (ii) The sale in commerce of such product in the country of origin of the product is illegal.

(c) Except in accordance with an exception referred to in Subpart C and §§ 18.31 and 18.32 of this Part 18, it is unlawful to import into the United States any:

(1) Marine mammal which was pregnant at the time of taking,

(2) Marine mammal which was nursing at the time of taking, or less than 8 months old, whichever occurs later,

(3) Specimen of an endangered or threatened species of marine mammals.

(4) Specimen taken from a depleted species or stock of marine mammals, or

(5) Marine mammal taken in an inhumane manner.

(d) It is unlawful to import into the United States any fish, whether fresh, frozen, or otherwise prepared, if such fish was caught in a manner proscribed by the Secretary of Commerce for persons subject to the jurisdiction of the United States, whether or not any marine mammals were in fact taken incident to the catching of the fish.

§ 18.13 Prohibited uses, possession, transportation, and sales.

Except as otherwise provided in the Act or these regulations, it is unlawful for:

(a) Any person to use any port, harbor, or other place under the jurisdiction of the United States for any purpose in any way connected with a prohibited taking or any unlawful importation of any marine mammal or marine mammal products;

(b) Any person subject to the jurisdiction of the United States to possess any marine mammal taken in violation of the Act or these regulations, or to transport, sell, or offer for sale any such marine mammal or any marine mammal product made from any such mammal; or

(c) Any person subject to the jurisdiction of the United States to use in a commercial fishery, any means or method of fishing in contravention of regulations and limitations issued by the Secretary of Commerce for that fishery to achieve the purposes of this Act.

§ 18.14 Marine mammals taken before the Act.

(a) Section 102(e) of the Act provides in effect that the Act shall not apply to any marine mammal taken prior to December 21, 1972, or to any marine mammal product consisting of, or composed in whole or in part of, any marine mammal taken before such date. Such status may be established by submitting to the Director prior to, or at the time of importation, an affidavit containing the following:

(1) The Affiant's name and address;

(2) Identification of the Affiant;

(3) A description of the marine mammals or marine mammal products which the Affiant desires to import;

(4) A statement by the Affiant that to the best of his knowledge and belief, the marine mammals involved in the application were taken prior to December 21, 1972;

(5) A statement by the Affiant in the following language:

The foregoing is principally based on the attached exhibits which, to the best of my knowledge and belief, are complete, true and correct. I understand that this affidavit is being submitted for the purpose of inducing the Federal Government to permit the importation of _____ under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and regulations promulgated thereunder, and that any false statements may subject me to the criminal penalties of 18 U.S.C. 1001.

(b) Either one of two exhibits shall be attached to such affidavit, and will contain either:

(1) Records or other available evidence showing that the product consists of or is composed in whole or in part of marine mammals taken prior to December 21, 1972. Such records or other evidentiary material must include information on how, when, where, and by whom the animals were taken, what processing has taken place since taking, and the date and location of such processing; or

(2) A statement from a government agency of the country of origin exercising jurisdiction over marine mammals that any and all such mammals from which the products sought to be imported were derived were taken prior to December 21, 1972.

(c) Bureau agents, or Customs officers, may refuse to clear marine mammals or marine mammal products for importation into the United States, pursuant to § 14.53 of this Subchapter, until the importer can demonstrate, by production of the affidavit referred in above or otherwise, that section 102(e) of the Act applies to all affected items.

(d) This section has no application to any marine mammal or marine mammal product intended to be imported pursuant to §§ 18.21, 18.31 or 18.32 of this part.

Subpart C—General Exceptions

§ 18.21 Actions permitted by international treaty, convention, or agreement.

The Act and these regulations shall not apply to the extent that they are inconsistent with the provisions of any international treaty, convention or agreement, or any statute implementing the same, relating to the taking or importation of marine mammals or marine mammal products, which was existent and in force prior to December 21, 1972, and to which the United States was a party. Specifically, the regulations in Subpart B of this part and the provisions of the Act shall not apply to activities carried out pursuant to the Interim Convention on the Conservation of North Pacific Fur Seals signed in Washington on February 9, 1957, and the Fur Seal Act of 1966, 16 U.S.C. 1151–1187, as, in each case, from time to time amended.

§ 18.22 Taking by State or local government officials.

(a) A State or local government official or employee may take a marine mammal in the course of his duties as an official or employee and no permit shall be required, if such taking:

(1) Is accomplished in a humane manner;

(2) Is for the protection or welfare of such mammal or from the protection of the public health or welfare; and

(3) Includes steps designed to insure return of such mammal, if not killed in the course of such taking, to its natural habitat. In addition, any such official or employee may, incidental to such taking, possess and transport, but not sell or offer for sale, such mammal and use any port, harbor or other place under the jurisdiction of the United States. All steps reasonably practicable under the circumstances shall be taken by any such employee or official to prevent injury or death to the marine mammal as the result of such taking.

(b) Each taking permitted under this Section should be included in a written report, to be submitted to the Director every six months, beginning December 31, 1973. Unless otherwise permitted by the Director, the report shall contain a description of:

(1) The animal involved;

(2) The circumstances requiring the taking;

(3) The method of taking;

(4) The name and official position of the State official or employee involved;

(5) The disposition of the animal, including in cases where the animal has been retained in captivity, a description of the place and means of confinement and the measures taken for its maintenance and care; and

(6) Such other information as the Director may require.

The reports shall be mailed to the Director, Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior, Washington, D.C. 20240.

§ 18.23 Native exceptions.

(a) *Taking.* Notwithstanding the prohibitions of Subpart B of this Part 18, but subject to the restrictions contained in this section, any Indian, Aleut, or Eskimo who resides on the coast of the North Pacific Ocean or the Arctic Ocean may take any marine mammal without a permit, if such taking is:

(1) By Alaskan Natives who reside in Alaska and such taking is for subsistence, or

(2) For purposes of creating and selling authentic native articles of handicraft and clothing, and

(3) In each case, not accomplished in a wasteful manner.

(b) *Restrictions.* (1) No marine mammal taken for subsistence may be sold or otherwise transferred to any person other than an Alaskan Native or delivered, carried, transported, or shipped in interstate or foreign commerce, unless:

(i) It is being sent by an Alaskan Native directly or through a registered agent to a tannery registered under subsection (c) of this section for the purpose of processing, and will be returned directly or through a registered agent to the Alaskan Native; or

(ii) It is sold or transferred to a registered agent in Alaska for resale or transfer to an Alaskan Native: or

(iii) It is an edible portion and it is sold in an Alaskan native village or town.

(2) No marine mammal taken for purposes of creating and selling authentic native articles of handicraft and clothing may be sold or otherwise transferred to any person other than an Indian, Aleut or Eskimo, or delivered, carried, transported or shipped in interstate or foreign commerce, unless:

(i) It is being sent by an Indian, Aleut or Eskimo directly or through a registered agent to a tannery registered under subsection (c) of this section for the purpose of processing, and will be returned directly or through a registered agent to the Indian, Aleut or Eskimo; or

(ii) It is sold or transferred to a registered agent for resale or transfer to an Indian, Aleut, or Eskimo; or

(iii) It has been first transformed into an authentic native article of handicraft or clothing; or

(iv) It is an edible portion and it is sold (A) in an Alaskan native village or town or (B) to an Alaskan Native for his consumption.

(c) Any tannery, or person who wishes to act as an agent, within the jurisdiction of the United States may apply to the Director for registration as a tannery or an agent which may possess and process marine mammal products for Indians, Aleuts, or Eskimos. The application shall include the following information:

(i) The name and address of the applicant;

(ii) A description of the applicant's procedures for receiving, storing, processing, and shipping materials;

(iii) A proposal for a system of bookkeeping and/or inventory segregation by which the applicant could maintain accurate records of marine mammals received from Indians, Aleuts, or Eskimos, pursuant to this section;

(iv) Such other information as the Director may request;

(v) A certification in the following language:

I hereby certify that the foregoing information is complete, true, and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining the benefit of an exception under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and regulations promulgated thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001.

(vi) The signature of the applicant.

The sufficiency of the application shall be determined by the Director, and in that connection, he may waive any requirement for information, or require any elaboration or further information deemed necessary. The registration of a tannery or other agent shall be subject to the conditions as the Director prescribes, which may include, but are not limited to provisions regarding records, inventory segregation, reports, and inspection. The Director may charge a reasonable fee for such applications, including an appropriate apportionment of overhead and administrative expenses of the Department of Interior.

(d) Notwithstanding the preceding provisions of this section, whenever, under the Act, the Secretary determines any species or stock of marine mammals to be depleted, he may prescribe regulations pursuant to section 103 of the Act upon the taking of such marine mammals by any Indian, Aleut, or Eskimo and, after promulgation of such regulations, all takings of such marine mammals by such person shall conform to such regulations.

§ 18.24 Taking incidental to commercial fishing operations.

Persons may take marine mammals incidental to commercial fishing operations until October 21, 1974: *Provided,* That such taking is by means of equipment and techniques prescribed in regulations issued by the Secretary of Commerce. However, any marine mammal taken as an incidental catch may not be retained. It shall be the immediate goal that the incidental kill or incidental serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate.

§ 18.25 Exempted, marine mammals or marine mammal products.

(a) The provisions of the Act and these regulations shall not apply:

(1) To any marine mammal taken before December 21, 1972, or

(2) To any marine mammal product if the marine mammal portion of such product consists solely of a marine mammal taken before such date.

(b) The prohibitions contained in § 18.12(c) paragraphs (3) and (4) shall not apply to marine mammals or marine mammal products imported into the United States before the date on which notice is published in the FEDERAL REGISTER of the proposed rulemaking with respect to the designation of the species of stock concerned as depleted or endangered:

(c) Section 18.12(b) shall not apply to articles imported into the United States before the effective date of the foreign law making the taking or sale, as the case may be, of such marine mammals or marine mammal products unlawful.

§ 18.26 Collection of certain dead marine mammal parts.

(a) Any bones, teeth or ivory of any dead marine mammal may be collected from a beach or from land within ¼ of a mile of the ocean. The term "ocean" includes bays and estuaries.

(b) Marine mammal parts so collected may be retained if registered within 30 days with an agent of the National Marine Fisheries Service, or an agent of the Bureau of Sport Fisheries and Wildlife.

(c) Registration shall include (1) the name of the owner, (2) a description of the article to be registered and (3) the date and location of collection.

(d) Title to any marine mammal parts collected under this section is not transferable, unless consented to in writing by the agent referred to in paragraph (b) of this section.

Subpart D—Special Exceptions

§ 18.31 Scientific research permits and public display permits.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the taking and importation of marine mammals for scientific research purposes or for public display.

(a) *Application procedure.* Applications for permits to take and import marine mammals for scientific research purposes or for public display shall be submitted to the Director. Each such application must contain the general information and certification required by § 13.12(a) of this Subchapter plus the following additional information:

(1) A statement of the purpose, date, location and manner of the taking or importation;

(2) A description of the marine mammal or the marine mammal products to be taken or imported, including the species or subspecies involved; the popu-

lation stock, when known, the number of specimens or products (or the weight thereof, where appropriate); and the anticipated age, size, sex, and condition (i.e., whether pregnant or nursing) of the animals involved;

(3) If the marine mammal is to be taken and transported alive, a complete description of the manner of transportation, care and maintenance, including the type, size, and construction of the container or artificial environment; arrangements for feeding and sanitation; a statement of the applicant's qualifications and previous experience in caring for and handling captive marine mammals and a like statement as to the qualifications of any common carrier or agent to be employed to transport the animal; and a written certification of a licensed veterinarian knowledgeable in the field of marine mammals that he has personally reviewed the arrangements for transporting and maintaining the animals and that in his opinion they are adequate to provide for the well-being of the animal;

(4) If the application is for a scientific research permit, a detailed description of the scientific research project or program in which the marine mammal or marine mammal product is to be used including a copy of the research proposal relating to such program or project and the names and addresses of the sponsor or cooperating institution and the scientists involved;

(5) If the application is for a scientific research permit, and if the marine mammal proposed to be taken or imported is listed as an endangered or threatened species or has been designated by the Secretary as depleted, a detailed justification of the need for such a marine mammal, including a discussion of possible alternatives, whether or not under the control of the applicant; and

(6) If the application is for a public display permit, a detailed description of the proposed use to which the marine mammal or marine mammal product is to be put, including the manner, location, and times of display, whether such display is for profit, an estimate of the numbers and types of persons who it is anticipated will benefit for such display, and whether and to what extent the display is connected with educational or scientific programs. There shall also be included a complete description of the enterprise seeking the display permit and its educational, and scientific qualifications, if any.

(b) *Review by Marine Mammal Commission.* Upon receipt of an application the Director shall forward the application to the Marine Mammal Commission together with a request for the recommendations of the Commission and the Committee of Scientific Advisors on Marine Mammals. In order to comply with the time limits provided in these regulations, the Director shall request that such recommendation be submitted within 30 days of receipt of the application by the Commission. If the Commission or the Committee, as the case may be, does not respond within 30 days from the receipt of such application by the Commission, the Director shall advise the Commission in writing that failure to respond within 45 days from original receipt of the application (or such longer time as the Director may establish) shall be considered as a recommendation from the Commission and the Committee that the permit be issued. The Director may also consult with any other person, institution or agency concerning the application.

(c) *Issuance criteria.* Permits applied for under this section shall be issued, suspended, modified and revoked pursuant to regulations contained in § 18.33. In determining whether to issue a scientific research permit, the Director shall consider whether the proposed taking or importation will be consistent with the policies and purposes of the Act; and whether the granting of the permit is required to further a bona fide and necessary or desirable scientific purpose, taking into account the benefits anticipated to be derived from the scientific research contemplated and the effect of the purposed taking or importation on the population stock and the marine ecosystem. In determining whether to issue a public display permit, the Director shall consider whether the proposed taking or importation will be consistent with the policies and purposes of the Act; whether a substantial public benefit will be gained from the display contemplated, taking into account the manner of the display and the anticipated audience on the one hand, and the effect of the proposed taking or importation on the population stocks of the marine mammal in question and the marine ecosystem on the other; and the applicant's qualifications for the proper care and maintenance of the marine mammal or the marine mammal product, and the adequacy of his facilities.

(d) *Additional Permit Conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, permits issued under this section shall be subject to the following conditions:

(1) Any permit issued under these regulations must be in the possession of the person to whom it is issued (or an agent of such person) during:

(i) The time of the authorized taking or importation;

(ii) The period of any transit of such person or agent which is incidental to such taking or importation; and

(iii) Any other time while any marine mammal taken or imported under such permit is in the possession of such person or agent.

(2) A duplicate copy of the issued permit must be physically attached to the container, package, enclosure, or other means of containment, in which the marine mammal is placed for purposes of storage, transit, supervision, or care.

(e) *Tenure of Permits.* The tenure of permits for scientific research or public display shall be designated on the face of the permit.

§ 18.32 Waiver of the Moratorium [Reserved].

§ 18.33 Procedures for issuance of permits and modification, suspension or revocation thereof.

(a) Whenever application for a permit is received by the director which the director deems sufficient, he shall, as soon as practicable, publish a notice thereof in the FEDERAL REGISTER. Such notice shall set forth a summary of the information contained in such application. Any interested party may, within 30 days after the date of publication of such notice, submit to the director his written data or views with respect to the taking or importation proposed in such application and may request a hearing in connection with the action to be taken thereon.

(b) If the request for a hearing is made within the 30 day period referred to in paragraph (a) of this section, or if the director determines that a hearing would otherwise be advisable, the director may, within 60 days after the date of publication of the notice referred to in paragraph (a) of this section, afford to such requesting party or parties an opportunity for a hearing. Such hearing shall also be open to participation by any interested members of the public. Notice of the date, time, and place of such hearing shall be published in the FEDERAL REGISTER not less than 15 days in advance of such hearing. Any interested person may appear in person or through representatives at the hearing and may submit any relevant material, data, views, comments, arguments, or exhibits. A summary record of the hearing shall be kept.

(c) As soon as practicable but not later than 30 days after the close of the hearing (or if no hearing is held, as soon as practicable after the end of the 30 days succeeding publication of the notice referred to in paragraph (a) of this section the director shall issue or deny issuance of the permit. Notice of the decision of the director shall be published in the FEDERAL REGISETR within 10 days after the date of such issuance or denial. Such notice shall include the date of the issuance or denial and indicate where copies of the permit, if issued, may be obtained.

(d) Any permit shall be subject to modification, suspension, or revocation by the director in whole or in part in accordance with these regulations and the terms of such permits. The permittee shall be given written notice by registered mail, return receipt requested, of any proposed modification, suspension, or revocation. Such notice shall specify:

(1) The action proposed to be taken along with a summary of the reasons therefor;

(2) In accordance with 5 U.S.C. 558, the steps which the permittee may take to demonstrate or achieve compliance with all lawful requirements; and

(3) That the permittee is entitled to a hearing thereon, if a written request for such a hearing is received by the Direc-

tor within 10 days after receipt of the aforesaid notice or such other later date as may be specified in the notice to the permittee. The time and place of the hearing, if requested by the permittee, shall be determined by the director and a written notice thereof given to the permittee by registered mail, return receipt requested, not less than 15 days prior to the date of hearing specified. The director may, in his discretion, allow participation at the hearing by interested members of the public. The permittee and other parties participating may submit all relevant material, data, views, comments, arguments, and exhibits at the hearing. A summary record shall be kept of any such hearing.

(e) The Director shall make a decision regarding the proposed modification, suspension, or revocation, as soon as practicable after the close of the hearing, or if no hearing is held, as soon as practicable after the close of the 10 day period during which a hearing could have been requested. Notice of the modification, suspension, or revocation shall be published in the FEDERAL REGISTER within 10 days from the date of the Director's decision. In no event shall the proposed action take effect until notice of the Director's decision is published in the FEDERAL REGISTER.

Subpart E—Depleted Species of Stocks [Reserved]

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PART III

ENVIRONMENTAL PROTECTION AGENCY

■

AIR PROGRAMS; APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Review of Indirect Sources

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Review of Indirect Sources

On May 31, 1972 (37 FR 10842), the Administrator of the Environmental Protection Agency published his initial approvals and disapprovals of state implementation plans submitted pursuant to section 110 of the Clean Air Act, as amended in 1970. Shortly thereafter, Natural Resources Defense Council, Inc. (NRDC) and various other petitioners challenged the Administrator's approvals in the United States Court of Appeals for the District of Columbia Circuit on several grounds, including the contention that the plans approved were not adequate to insure maintenance of the ambient air quality standards once such standards were attained.

As to this issue, the Court ruled in NRDC v. EPA, 475 F.2d 968 (D.C. Cir. 1973), that the record before the court was insufficient to ascertain whether the Administrator had made a state-by-state determination as to plans' adequacy regarding maintenance. Accordingly, the Court ordered the Administrator to review the maintenance provisions of all approved state implementation plans and to disapprove those plans which (1) did not contain measures necessary to assure maintenance of the primary standards after the statutory attainment date, and (2) did not analyze maintenance in a manner consistent with the Administrator's regulations.

Upon further review, the Administrator determined that no state plan contained all of the measures necessary to assure maintenance of the standards and that no plan had adequately analyzed the impact of growth on air quality maintenance for any significant period of time into the future. Accordingly, on March 8, 1973 (38 FR 6279), the Administrator disapproved all state plans with respect to maintenance of standards.

In the notice of disapproval, the Administrator noted that several mechanisms already available under the Act and in regulations would serve to mitigate the impact of overall community growth on air quality maintenance. For instance, maintenance was partially insured by the then-existing provisions of 40 CFR 51.18, which required each state plan to have adequate procedures to review, and where necessary prevent, the construction or modification of any stationary source of air pollution at a location where emissions from that source would result in interference with the attainment or maintenance of a national standard. Emission performance standards for new major stationary sources promulgated under section 111 of the Act and emission standards for motor vehicles promulgated under section 202 of the Act will also serve to mitigate the impact of growth. Moreover, a valuable tool to ensure maintenance exists in the requirements in section 110 of the Act that pollutants in the ambient air be continually monitored and that the Administrator shall call for the revision of inadequate state implementation plans whenever monitoring or other information indicates this to be necessary.

The Administrator determined, however, that such measures alone would not be adequate to ensure maintenance, particularly for pollutants emitted largely by motor vehicles in the context of increased use resulting from general urban and commercial development. Accordingly, the Administrator determined that the new source review procedures noted in the preceding paragraph should be expanded to cover not only stationary sources but also "complex" or "indirect" sources of air pollution—facilities which do not themselves emit pollutants, but which attract increased motor vehicle activity and thereby may cause violations of an implementation plan's transportation control strategy or may prevent or interfere with the attainment or maintenance of an ambient air quality standard.

Thus, all state implementation plans were disapproved on March 8, 1973, because of their failure to sufficiently assess and provide for maintenance of standards, and specifically for their failure to provide for the above-mentioned "complex" or "indirect" source review. In a separate action on March 8 (38 FR 6290), the Administrator issued an advance notice of proposed rulemaking stating his intention to modify his regulations for preparation of state implementation plans contained in 40 CFR Part 51 in order to give further guidance to the states in the preparation of approvable indirect source review measures. In a timetable approved by the D.C. Circuit Court, the Administrator then proposed such new guidelines on April 18, 1973 (38 FR 9599), and promulgated final guidelines on June 18, 1973 (38 FR 15834).

Specifically, these "guidelines" involved amendments to 40 CFR 51.11 and 51.18. Section 51.11 was amended so that a state implementation plan could not be fully approvable unless the state had legal authority to conduct "indirect" source review as well as "direct" (stationary) source review. Section 51.18 was amended to specify in detail the substantive and procedural matters which must be dealt with by states in developing approvable indirect source measures.

The Administrator noted in the April 18 preamble that even such a source-by-source review might not be adequate to assure area-wide maintenance: "The purpose of the review and determination procedures required under 40 CFR 51.18 [new stationary and indirect source review] is primarily to insure that the national standards will not be violated in the vicinity of a major new facility." The Administrator recognized that in the long run, greater attention to the overall impact of growth on regional air quality would be needed to fill in gaps left by a source-by-source review scheme.

In the June 18, 1973, final promulgation of the guidance regulations amending 40 CFR Part 51, the Administrator determined, in response to public comments, that a comprehensive growth analysis should be specifically required of the states in order to make the maintenance provisions of implementation plans fully acceptable. It was the Administrator's conclusion that indirect source review, while "a necessary addition" to an overall strategy for assuring maintenance, could be considered only an additional tactic in such strategy, "because source-by-source analysis is not an adequate means of evaluating, on a regional scale, the air quality impact of growth and development * * *" Furthermore, for pollutants such as hydrocarbons and nitric oxide, which affect air quality through complex atmospheric reactions resulting in the formation of photochemical oxidants and nitrogen dioxide, analytical tools that can be used with confidence to predict the air quality impact of a single source are not now available.

Accordingly, the Administrator promulgated additional regulations amending 40 CFR 51.12. States must comply with these regulations before their implementation plans can be regarded as fully approved with respect to air quality maintenance. Generally such regulations require states to identify by March 18, 1974, those areas that may exceed any national standards within the next ten years; to develop and submit to the Administrator by June 18, 1975, an analysis of the impact of projected growth on air quality in such regions; and to adopt such measures as may be necessary to assure that growth and development will be compatible with maintenance of the national standards. Only when such plans are finally approved can the Administrator consider the maintenance portions of state plans complete. Thus, indirect source review procedures are a necessary but insufficient element in a comprehensive strategy for air quality maintenance.

Further, in accordance with the order of the D.C. Circuit Court, the Administrator allowed States until August 15, 1973, to submit indirect source review procedures for approval. For those states which submitted nothing or whose plans could not be approved, the Administrator proposed on October 30, 1973 (38 FR 29893), Federal regulations for review of indirect sources. Since the public did not have adequate opportunity to comment on the seven plans that had been received by that date, no state indirect source procedures could be approved.

The Administrator is further required by the Court's order, as most recently modified on February 13, 1974, to promulgate final regulations no later than February 15, 1974. This rulemaking is, therefore, being carried out pursuant to the schedule approved by the D.C. Circuit Court in order to provide indirect source review procedures as one element in an overall strategy for maintenance which all state implementation plans are

required to contain. State plans shall remain disapproved as to maintenance pending final submission and approval of the growth analyses and other necessary measures noted above.

Based on a preliminary review of the seven plans which had been submitted by October 30, 1973, three (Alabama, Florida, and Guam) appeared approvable and, thus, no proposal was made for those three States on October 30. The Alabama and Florida plans were proposed for public comment in the October 26, 1973, FEDERAL REGISTER (38 FR 24607–08) and the Guam plan as proposed on January 9, 1974 (39 FR 1454). In each case, the Administrator has reviewed the plan submissions to ascertain whether adequate legal authority exists, as required by 40 CFR 51.11, whether a public hearing was held, as required by 40 CFR 51.4, and whether the plan meets the detailed requirements for indirect source review contained in 40 CFR 51.18. The Administrator has also reviewed the written comments submitted in response to the proposals. Criticism of the submissions focused upon the size criteria for determining which indirect sources would be subject to review, the effective dates, and the failure to specifically address the issue of nondeterioration. Similiar comments were submitted with respect to the Administrator's October 30 proposal and are discussed in subsequent paragraphs of this preamble.

The Florida and Guam plans for indirect source review are fully approved below. The Alabama plan for indirect source review has been determined to be approvable in all respects except that the necessary public comment procedures were not included in regulatory form. The Administrator is, therefore, promulgating a corrective regulation for Alabama relating solely to public comment procedures. Since these procedures are clearly required by 40 CFR 51.18 and the regulation merely gives legally enforceable form to the procedures spelled out by the State in its submission, the Administrator finds good cause for promulgating such a correction without having proposed it.

To date, EPA has received 14 officially submitted state plans for review of indirect sources. Five (Connecticut, Kentucky, New Hampshire, Vermont and Virginia) have been or will shortly be proposed for public comment on their approvability and remain disapproved until the Administrator completes his evaluation. Seven of the state plans (Alabama, Idaho, Maine, New York, North Carolina, Oregon, and Washington) contain deficiencies which are specifically identified below. The Administrator is aware that several of these states are working to correct the deficiencies; if changes are submitted and found approvable, the regulations promulgated for these states will be revoked. Only the Florida and Guam indirect source review procedures can be fully approved at this time.

Modification to the Proposed Regulations Made in Response to Public Comments. Many individual citizens, environmental groups, corporations, commercial associations, and governmental agencies participated in the rulemaking process by submitting written comments or testifying at public hearings held on the October 30, 1973, proposed regulations. While it would be impossible to respond to every point, a number of the major comments are discussed below. Many of the alleged deficiencies in the basic approach of the proposed regulations as reflected in public comments were based upon an inadequate understanding of the purpose of these regulations. They are intended to provide one element in an overall strategy of air quality maintenance, including new stationary source review, new source performance standards, the Federal motor vehicle control program, and the comprehensive growth plans which the states must develop. As explained earlier, the Administrator has determined that a source-by-source review approach, while necessary to assure maintenance, must be accompanied by more inclusive long term growth analyses.

Many of the comments focused critically upon the size criteria for determining which indirect sources would be subject to the review process. One comment frequently made was that the sizes set forth (1,000 parking spaces, 20,000 vehicles per day for highways, etc.) were too large and that much smaller sources should be reviewed in order to assure maintenance. The Administrator has determined that the facilities to be reviewed should be limited to those most likely to cause air quality problems. In administering the Act, the Administrator must choose workable tactics considering sound and rational allocation of resources. In the Administrator's judgment, the relatively minimal benefits to be gained by reviewing smaller sources would be greatly outweighed by the resulting detrimental diversion of manpower and resources needed to implement other important aspects of the Act. Accordingly, it has been determined that air quality problems associated with an aggregation of smaller sources can be dealt with more effectively and efficiently through the comprehensive growth plans to be submitted by June 1975 than through source-by-source reviews under these indirect source regulations.

Several comments were also received from State agencies generally urging consideration of smaller size categories. As emphasized in the October 30 proposal, the size of an indirect source subject to these regulations has been determined in a nationwide context and cannot reflect special local conditions, such as a desire to include other environmental or social considerations in the review. The Administrator supports and encourages the enactment of more restrictive indirect source provisions and regulations by states where the needs, conditions, and/or public desire so indicate.

Other comments criticized the basic approach of reviewing facilities based upon strict size criteria such as size of associated parking areas. These comments made the point that size alone is not the determinative factor as to whether a particular facility will cause air quality problems; and that much more relevant factors concern trip inducement, the design of parking areas, the "tenant-mix" of shopping complexes, and others. Several of those who commented also construed the proposed regulations to mean that the principal purpose is to regulate the size of the associated parking lot. It should be emphasized that parking lot size is used only as a convenient, easily defined parameter which serves as a "triggering mechanism" for determining whether a source is subject to review. When a source is being reviewed under the regulations, factors relating directly to air quality impact will be utilized in making the final determination.

Several comments were received criticizing the use of a trip inducement test as being too indefinite a standard to use for determining whether a facility is subject to review. These comments pointed out that in many cases, a developer could not determine with confidence whether his facility is subject to review, since the trip inducement criterion requires that he estimate, several years into the future, how many vehicle trips his facility would induce during peak traffic conditions. Although many developers assess trip inducement as an integral part of their market analysis, a developer should not be placed in legal jeopardy should the actual trips induced upon completion exceed his initial calculations. The Administrator has concluded that a "trip inducement" review test would cause much uncertainty as well as substantial enforcement problems. Thus, the trip inducement standard is not included in the regulations promulgated below, with parking facility size being the only indicator of the need for review of sources other than highways and airports.

Some commentors criticized the regulations for not specifically addressing the problems of "non-deterioration." The agency proposed separate regulations for non-deterioration on July 16, 1973 (38 FR 18986). Due to the large number of comments received and the importance of this issue in relation to air quality, land use policies, and the country's economy, the Agency has not yet completed its rulemaking on non-deterioration. Because several basic approaches are still being considered, an attempt to reflect non-deterioration considerations in the indirect source regulations would be premature. However, it is EPA's intent that indirect source and significant deterioration regulations will be consistent with one another. Specific relationships will be addressed in regulation to be promulgated on significant deterioration.

Public comments also criticized the use of the distinction between "designated" and "non-designated" areas for determining the size of facilities which would be subject to review, on grounds that such distinction would violate the Act's intent that no significant deterioration of air quality be permitted in any area

of the country, in that the division would purport to treat clean areas more leniently than dirty areas. As already stated, attempts to design these regulations to coincide with a "non-deterioration" policy would be premature. Moreover, the criterion for review in these regulations is whether the facility would interfere with attainment or maintenance of the national standards. Because of generally lower "background" levels in non-urban areas and in keeping with the purpose of these regulations, which is to review sources most likely to cause significant air quality problems, it is the Administrator's judgment that it is not necessary to review the same size source in non-urban areas as in urban areas.

In the regulations promulgated below, the use of "designated areas" for determining which areas of the country shall be subject to more restrictive source exemption provisions has been dropped and the Standard Metropolitan Statistical Area boundaries have been retained for this purpose. This is done to eliminate the confusion that could result if an area were designated as an air quality maintenance area (AQMA) for one pollutant but not for another. This should result in more areas of the country being subject to the lower cut-off limits than under the AQMA approach. In appropriate circumstances, the Administrator will consider requests by the States to use area designations other than SMSA's for determining the geographic applicability of the more restrictive exemption provisions.

With respect to highways, it is the Administrator's judgment that air quality problems would rarely be caused outside of urbanized areas. Highways generally connect one or more urbanized areas somewhere along their length and the regulation is written so as to focus the review on the most critical points along the highway, where the traffic volume and "background" concentrations are the greatest.

Many comments which criticized the size cutoffs for review as being too large argued that the regulations would encourage the development of many small facilities to escape indirect source review, thereby encouraging "urban sprawl" with resulting environmentally detrimental effects. It was urged by some that the Administrator should encourage rather than discourage some large developments such as regional shopping centers which, because they offer a consumer "one-stop" shopping for a large variety of goods and services, might actually result in a net decrease in area-wide vehicle miles of travel.

The Administrator certainly does not intend and does not believe that the encouragement of small, strip-type developments will be the effect of these regulations. First, it should be stressed that the primary purpose of the regulations is to ensure that proposed projects are designed and located in a manner consistent with air quality requirements. If the proposed project would interfere with a national standard, changes in the design, or extension of mass transit, should be considered. Only if a project cannot be made compatible with air quality requirements would it be necessary to prevent its construction. Furthermore, as long as there are economic incentives favoring development of large projects, the Administrator does not believe that developers of larger projects will change their scope of operations solely for fear of indirect source review. As is discussed below, developers will be encouraged to submit their plans for indirect source review at the earliest stage in the development process that the required information becomes available. Thus, applicants should be able to obtain guidance and a final determination from the reviewing agency at a point where total projected investment and expenditures for the source will be quite low, and will usually be able to make necessary design modifications so that a large indirect source can receive formal approval.

Some comments criticized the regulations for requiring analysis of only carbon monoxide effects for most sources and requiring photochemical oxidant, hydrocarbon, and nitrogen dioxide analysis only for highways and airports. Others stated that the highway cutoff numbers were too low to conduct adequate area-wide oxidant analysis for all highways subject to review. As stated in the preamble to the October 30, 1973, proposed indirect source regulations, it is the Administrator's judgment that adequate analytical techniques do not exist at this time to predict with confidence the effects of a single source on area-wide oxidant levels, except for extremely large sources which have an obvious area-wide impact on emission levels such as airports and large highways.

In the Administrator's judgment, using presently available analytical techniques, the impact on area-wide emission levels of hydrocarbon and nitrogen oxides resulting from all highway projects subject to review may not be sufficient to provide the basis for denial of an application. Therefore, the analysis with respect to photochemical oxidants and nitrogen dioxide for highways has been modified in regulations promulgated below. Only highways with an anticipated average annual daily traffic (AADT) volume of 50,000 or more vehicles per day, or modifications resulting in an increase of 25,000 vehicles per day, would be reviewed for their impact on photochemical oxidants or nitrogen dioxide. The regulation also provides that where a specific highway section is part of a roadway network which has been analyzed and found fully acceptable by EPA with respect to maintenance of the national standards for photochemical oxidants and nitrogen dioxide, then an oxidant or nitrogen dioxide analysis is not required for individual segments of such EPA-approved roadway network. The mechanism for EPA air quality analysis of proposed area-wide urban transportation plans and programs is established by the Federal Highway Administration (23 CFR Part 770), which provides that area-wide transportation plans be reviewed annually by the appropriate EPA Regional Administrator to determine their consistency with the approved implementation plan. This process is scheduled to be implemented by April 1, 1974.

Many comments criticized the June 13, 1974, effective date contemplated by the October 30, 1973, proposal as being an unjustified deferral. Others, however, argued that a longer time would be more appropriate. As explained in the preamble to the proposal, the deferral was considered necessary to allow state and local reviewing agencies adequate opportunity to make preparations for implementing the procedures prescribed by the regulations. (As will be explained below, while the regulation being promulgated today is written in terms of the "Administrator" performing the review, it is hoped that before the effective date, the Administrator will have delegated his reviewing authority to many state and/or local agencies or that the states will have submitted approvable procedures of their own.)

In light of recent firm Congressional guidance contained in amendments to the Clean Air Act included in the conference committee's version of the Energy Emergency Act (S. 2589), and in the report prepared by the Committee to accompany such amendments,[1] the Administrator has concluded that it is the intent of Congress that these regulations, with respect to parking facilities, not be applicable to indirect sources which have started construction prior to January 1, 1975. While the Congressional guidance does not apply to airports and highways, it is the Administrator's judgment that, for compelling administrative reasons and because of the need to improve the Agency's data base, reviews of airports and highways should also apply only to facilities which have started construction on or after January 1, 1975. The Administrator believes that such across-the-board deferred applicability is consistent with the analysis of growth presently contained in the implementation plans. Most implementation plans generally analyzed and allowed for growth at least until 1975, thereby making the implementation of these maintenance regulations most appropriate for the period after 1975.

The Administrator recognizes that many projects may presently be in the planning stages, but will not start actual construction until after January 1, 1975. If the Agency does not begin to implement the review procedures prior to

[1] For further details as to the development of these amendments and the Administrator's response thereto, see 39 FR 1848, January 15, 1974. It should be noted that the January 15 notice announcing the deferral of the effective date of the indirect source review procedures does not affect the schedule established on June 18, 1973 (38 FR 15834), for designation of air quality maintenance areas and the analysis and development of control strategies for such areas.

January 1, 1975, developers of such projects would be in the difficult position of either continuing to commit money and effort to a project which might later require redesign or relocation, or suspending further work pending approval in 1975. To avoid such problems, the Administrator will begin to implement the review procedures on July 1, 1974, for any project which will commence construction after January 1, 1975, on a voluntary basis for those developers wishing to seek review. This approach is consistent with the recent Congressional guidance without producing inequitable delays or uncertainties for developers.

The deferral of the date for implementation of the review procedures until July 1, 1974, will allow the agency time within which to develop and publish general technical and design guidelines for distribution to applicants who will be seeking review under the regulations. Such guidelines will provide needed assistance to applicants in preparing the material required to be submitted by the regulation and in designing the traffic-related aspects of their sources so as to have the least possible adverse effect on air quality and the greatest possible chance for approval. The deferral will also allow greater opportunity for states to develop their own indirect source review procedures. Especially because these regulations inherently involve issues of land use, the Administrator feels that review should be carried out whenever possible at the state and local levels where land use decisions have traditionally been made.

Many comments were received regarding the approach to exempting projects at some stage in the development short of the commencement of actual construction. The proposed regulation provided that an applicant who had entered into a "general construction contract" prior to the effective date would not be subject to review.

Some comments criticized this approach as being open to loopholes in that applicants who had spent very little time or money on development and who did not plan to do so until well after the effective date could escape review by entering into a contract. The proposal was also criticized on the grounds that much costly physical work could have already begun on a site in preparation for a specific project design, and yet because the "general construction contract" for the actual superstructure had not yet been executed on the effective date, the project would be subjected to the uncertainties of review.

In reevaluating this issue based upon the public comments, the Administrator has determined that the "general construction contract" concept should be dropped as being too susceptible to abuse by those seeking to avoid review. At the same time, the Administrator has decided to define the phrase "commence construction" in the regulation to clarify the stage a project would have to reach on the effective date in order to be exempt from review. Under the clarifying language, where actual physical on-site construction or other physical site preparation work as part of a continuous program for the completion of a specific indirect source has commenced before January 1, 1975, an indirect source will not be subject to review.

The Administrator considers this to be the most rational and equitable approach. To draw the line at a later stage in construction could be quite economically disruptive, while to draw the line at an earlier stage could exempt many projects from review which could still relatively easily and inexpensively be modified in concept and design in order to comply with this regulation.

Public comments were received urging that any indirect source otherwise subject to review under the regulation, which is constructed pursuant to an urban renewal or redevelopment plan, be exempted from review so long as a redevelopment agency had begun to carry out the project. Under this approach, a major indirect source for which construction will not commence for several years would escape review even though such source could adversely impact air quality if it is not designed properly.

The Administrator recognizes that urban renewal and redevelopment projects can, if properly planned, have a very positive effect on area-wide air quality and on the overall quality of the environment. However, it would not be consistent with the purpose of the Act or these regulations to allow any major indirect source subject to these regulations and which commences construction on or after January 1, 1975, to be exempt from review. As has been noted, the basic focus of the review process in these regulations is to ensure that localized violations of the carbon monoxide standards will not be created in the vicinity of a specific indirect source. It is the Administrator's desire to protect the health of individuals living and working in urban renewal areas to the same degree as all other individuals.

Moreover, the Administrator feels that any disruptive effect on urban renewal projects caused by these regulations should be minimal. Indirect sources for which on-site grading or construction work is begun before January 1, 1975, will not be subject to review. For those sources that will be reviewed, it should again be stressed that the primary emphasis of these regulations is to ensure that facilities will be designed properly in accordance with air quality considerations. It should be necessary to deny an approval only in unusual situations where it is impossible to construct a facility with design or other traffic-related conditions imposed so as to meet the tests for review.

One comment questioned whether EPA has legal authority to promulgate requirements for review of indirect sources. The Administrator feels strongly that such authority is conferred by section 110(a)(2)(B) of the Act, which requires that implementation plans include "such other measures as may be necessary to ensure attainment and maintenance of such primary and secondary standards, including, but not limited to, land use and transportation controls". Moreover, section 301(a) of the Act provides that "The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act." As has been explained earlier in this preamble, the Administrator has determined that review of the air quality impact of indirect sources and the prevention of their construction or modification at such locations where air quality violations could be created and perpetuated is a necessary element in an overall strategy to assure maintenance of national ambient standards as mandated by the Act.

Another issue which has been raised is that while these regulations purport to limit the parking lot size of many facilities, local ordinances may require a certain ratio of parking spaces to square feet of commercial space before certain types of facilities may receive local building permits. The Administrator feels that problems arising from this situation will be minimal. First, the regulations should not in most cases operate to limit the sizes of parking facilities, but merely assure that traffic-related aspects of an indirect source are properly designed in accordance with air quality considerations. Second, to the extent that accommodations must be made under the regulations, such as arranging for the extension of mass transit to a facility and diminishing the number of planned parking spaces, developers may be able to obtain variances from local requirements on the basis that Federal regulations would otherwise prevent the construction and that the purpose of the local parking requirements will be served by the provision for additional mass transit.

It should be understood that the fact that these regulations impose one more step in the approval process and may further restrict an owner's freedom of action relating to parking facilities does not make the regulations improper in view of their necessity under the Act to help assure maintenance of health standards.

Another issue which has created some confusion and has been raised in public comments revolves around previous statements made in earlier preambles that these regulations relate to the attainment, as well as the maintenance, of the national standards. The primary purpose of the regulations is to serve as an element in an overall strategy for maintenance. The regulations are not technically part of any control strategy to attain the standards in those areas in which the ambient air standards are now being exceeded. Nevertheless, they will serve a useful corollary purpose of assisting in the attainment of the standards in such areas.

Several questions were raised concerning the applicability of the proposed regulation in relation to housing developments and airport roadways and parking lots. The regulation is not intended to apply to single family housing developments; however, apartment house

developments meeting the "associated parking area" criterion would be subject to review. In the Administrator's judgment, a single family tract development does not produce sufficient emission density to yield meaningful results for an air quality impact analysis of an individual development. This is not to say that low density development is more desirable than high density development; however, it is the Administrator's judgment that such low density development is more appropriately and effectively analyzed and dealt with in the comprehensive growth plans related to air quality maintenance.

With respect to airport roadways and parking facilities, the Administrator feels that it is appropriate to review such facilities for their localized impact on carbon monoxide concentrations as well as to review their impact when conducting general airport review for area-wide impact on carbon monoxide, photochemical oxidants, and nitrogen dioxide concentrations.

There was some concern expressed over the possible misinterpretation of the wording "or combination thereof" included in the definition of indirect source, since it might be construed that several different developments would be considered a single indirect source. This wording has been omitted from the regulation promulgated below, since it is unnecessary and has caused needless confusion. This deletion will not in any way change the intended scope of these regulations.

Several comments criticized the basic approach of the regulations as requiring approval decisions to be based solely on air quality considerations, ignoring social and economic considerations. Economic and social considerations have not been ignored in developing these regulations. As has already been explained, the Administrator has taken the question of economic disruption into consideration in determining the stage of development a project must reach in order to be exempt from review on the effective date. Also, it should be stressed that the purpose of the regulations is not to preclude development except in those rare cases in which no accommodation with air quality maintenance can be reached. Furthermore, these regulations are one of the measures necessary to assure maintenance of the primary standards for auto-related pollutants. These primary standards are set to protect the public health, certainly an overriding social concern.

It is true that a final determination as to a specific source's approvability under the regulation must be based solely on air quality factors. To do otherwise would exceed the scope and purpose of these regulations promulgated pursuant to the Clean Air Act. It should be emphasized, however, that the determination made pursuant to these regulations is only one necessary step among many other land-use measures already generally established (i.e., zoning approval, site plan approval, demolition and building permit approval, sewer tap-in approval, etc.) in order to assure that a specific facility will be designed and located in a manner not inconsistent with the public health, safety, and welfare. It is hoped that indirect source review will eventually be incorporated into comprehensive State and local land use planning processes so that social, economic, and air quality factors can be considered in an integrated manner.

Many comments were received regarding the procedural aspects of information submitted with application, public comments, and agency determinations. In response to comments, the regulation has made clear that the reviewing agency may require for submission only that information reasonably related to an air quality analysis, and that the time for public comment will not begin to run until all information has been submitted. Also, in response to comments, the regulations now provide that the period within which decisions must be made may be lengthened to allow for more time to make often complex and difficult technical decisions based upon possible voluminous material and public comments.

Several other comments relating to the procedures are inappropriate for consideration at this time since the procedures basically follow the requirements of the Administrator's own regulations appearing in 40 CFR 51.18 which were finally promulgated after proposal and a public comment period on June 18, 1973.

Developers are encouraged to apply for review under these regulations as early in the development process as the information required to be submitted can be prepared. Thus, applicants will be able to ascertain whether their plans will be acceptable under the regulations well before substantial sums are expended in relation to total project cost. The Administrator also encourages developers to seek review of entire large scale projects, such as redevelopment projects, industrial parks, or planned communities, even though only certain elements of such projects might be subject to review under this regulation. Approval of the project as a whole will allow the developer to proceed with certainty that the entire project can be completed as planned.

The language concerning modifications to design and conditions for approval has been modified in response to public comments to make clear that the reviewing agency is under no affirmative duty to devise alternatives which will make an otherwise disapprovable project approvable, but is merely given the discretion to do so or to consider alterations suggested by applicants. The conditions which might be imposed on a permit have been clarified to ensure that they must relate to air quality, and that they may be imposed only if the facility could not meet approval in the form proposed by the application.

Several comments suggested that the relationships of the indirect source regulations to "management of parking supply" regulations promulgated by the agency as part of several regional transportation control plans be explained so as to avoid confusion among applicants and reviewing agencies as to which regulation would be applicable to a particular facility. In this regard, it should be pointed out that in the preamble to the proposed indirect source regulations, it was stated that in areas where transportation control plans are required, review of smaller indirect sources would be justified.

In regard to the "management of parking supply regulations" the Administrator has recently deferred the effective date for review until January 1, 1975, in all areas where such regulation was promulgated for the reasons set forth in the preamble to such action printed at 39 FR 1848, January 15, 1974. As explained in that preamble, the agency will be reexamining such regulations in the next few months and will be making other studies relating to transportation control plans in general.

In view of the fact that the indirect source regulations will be applicable only to facilities commencing construction on or after January 1, 1975, and that several aspects of transportation controls are actively under consideration, the Administrator has determined that it would be inappropriate to tailor the indirect source regulations in regard to transportation plan considerations at this time. The Administrator will clear up any confusion relating to "parking management" regulations well before January 1, 1975. At this time, it should be assumed that the review for smaller sources in the transportation control plans will remain unchanged.

Delegation of Review Responsibility to State and Local Agencies. The proposed regulation has been changed to specify that the "Administrator" or an agency designated by him, is designated as the reviewing authority. In the preamble to the proposed regulations, it was noted that a state or local agency could be designated to carry out the review under EPA's promulgated regulations on the basis of an EPA regulation [40 CFR 52.02(d)] which provides that provisions of an approved or promulgated implementation plan may be enforceable by states and local agencies in accordance with their assigned responsibilities under the plan. It was also stated that where states were unwilling to carry out the review under EPA regulations, the EPA would assume this responsibility.

Several states have thus far indicated their willingness to carry out such review, others have indicated that they would not, and many have not indicated their position with certainty on this issue. In view of the deferred effective date for these regulations, the Administrator considers it most appropriate at this time to delay designating state or local agencies to carry out review until a more complete nationwide consultation with state and local agencies can be made to ascertain precisely which agencies should be delegated the authority to conduct review. The Administrator continues to encourage state and local agencies to seek such

delegation through the appropriate EPA regional offices.

In this regard, the Administrator emphasizes that the Clean Air Act places primary responsibility for the prevention and control of air pollution on the states and local governments. Accordingly, two broad options are available to states in designating an agency to exercise the review authority required under these regulations. One option is to place responsibility for review of indirect sources in a state-level agency; the other option is to assign responsibility to appropriate units of local government.

Because of the impact which projects to be reviewed under these regulations may have on land use and urban growth and development, the Administrator encourages the states to delegate substantial authority under these regulations to appropriate local governmental units. Such delegation ought to be subject to appropriate conditions (such as effective and coordinated review on the appropriate regional scale, citizen involvement, ultimate control by general purpose local government, etc.) Alternatively, the Administrator encourages the states to allow local general purpose governments, subject to similar conditions, to request designation of a local governmental agency as the reviewing authority. If a state chooses to exercise review authority at the state level, the Administrator encourages states to provide for consultation with affected local governmental units in conducting such reviews. Although the Administrator feels that delegation of review powers to State authorities, with their subsequent subdelegation to local authorities, is the most rational means of delegating responsibility in accordance with the framework of the Act, the Administrator reserves the right to delegate such review powers directly to local governmental units in appropriate cases, where localities are willing to accept such responsibility and States are not. It is also possible to delegate review under this regulation directly to State or local administrative agencies. However, such delegation will not be done without the consent of the elected officials having jurisdiction over such agencies. Whenever a state or local agency requests delegation of these review procedures, the Admisintrator will consider appropriate administrative or procedural modifications to the regulation, consistent with the Act and 40 CFR Part 51, to facilitate such assumption of responsibility.

The Administrator also is aware of the concern some have voiced that the review authority may be assigned to an agency whose authority is restricted to air pollution control. Accordingly, the regulations require that, where the designated agency does not have continuing responsibilities for land use planning and decision making, the reviewing agency shall consult with the appropriate state and local agency or agencies prior to making certain determinations. In turn, if the designated review agency is not an air pollution control agency, the regulations require that the review agency shall consult with the appropriate state and local air pollution control agencies prior to making its determination.

While the Administrator urges States and/or localities to accept the responsibility to conduct review under these regulations as the Administrator's agent, it should be stressed that the Administrator even more strongly encourages States to develop their own indirect source review procedures in accordance with the requirement of 40 CFR 51.18. Through this process the States can more fully tailor regulations to their own special needs, and the Act's emphasis on State and local control of air pollution will be more fully served.

Additional Changes to Proposed Regulation. The final regulations clarify the information which must be submitted by the applicant. Generally, the applicant is not required to analyze the air quality impact of his facility; this function will be performed by the reviewing Agency based on data submitted by the applicant. Since developers normally do not have the expertise to perform such an analysis, this change will ensure that such calculations are properly made, and that the air quality estimates will be made at receptor locations considered important by the reviewing agency.

It should be emphasized at this point that much of the data required of the applicant may be available in an Environmental Impact Statement (EIS) prepared pursuant to the National Environmental Policy Act (42 U.S.C. 4321) or similar state legislation. It is not the intent of this regulation to duplicate the information-gathering requirements of NEPA. Where an EIS has been prepared, it should be submitted as part of the application and only the required information not contained in the EIS need be submitted separately.

The final regulation has been modified to clarify the findings the reviewing agency must make before an application can be approved. For facilities other than airports and highways, the reviewing agency is authorized in appropriate cases to make the judgment concerning interference with attainment or maintenance of the national standards on the basis of whether the construction or modification will result in traffic flow characteristics which have been determined by the Administrator not to cause violations of the national standards for carbon monoxide. This provision does not modify the reviewing agency's responsibility to make the determination that the ambient air quality standards will be attained and maintained; it simply provides another tool to be used in appropriate situations for making such a determination. In cases where the Administrator finds that the use of the traffic flow characteristics would not be compatible with the tests for review under the regulation, he is required to consider a diffusion model is making his final determination. In cases where the developer does not believe that the traffic flow characteristics prescribed by the Administrator's guidelines are necessary in order to ensure attainment and maintenance of the national standards for carbon monoxide, the developer may submit with his application the results of a diffusion model to support his contention.

Prior to the effective date of these regulations, the Administrator will publish guidelines setting forth the traffic flow characteristics which must be attained for various types of facilities in order to prevent localized violations of the carbon monoxide standards. These guidelines will be used by the Administrator (and designated agencies) in carrying out the review under the regulations and should be used by developers in planning their facilities so as to maximize their chances for approval. This guidance will also include information on sound design practices (e.g., parking lot design, means for ensuring adequate gate capacity, methods for reducing the levels of service on roadways and intersections significantly affected by the indirect source) and other measures, such as mass transit options, which may be used to attain the appropriate traffic flow characteristics.

The above approach is intended in appropriate cases to translate the required air quality determination into specific performance criteria with which developers are much more familiar. This approach minimizes the controversial land use implications of these regulations by emphasizing the control of adverse traffic conditions which cause highly localized carbon monoxide concentrations. Thus, even though the national standards for carbon monoxide may presently be exceeded at some locations in a region, most facilities subject to this regulation which are designed to produce the requisite traffic flow characteristics should still be allowed to construct. This is due to a combination of three factors:

1. Generally, present air quality data reflect the most highly polluted downtown areas. Much new construction occurs on the outskirts of the urban area where carbon monoxide concentrations are relatively low. Construction that does occur in downtown areas is usually served or can be served by mass transit so that the induced traffic will be minimal.

2. The Federal Motor Vehicle Control program will continue to reduce automobile emissions. By the date a facility that commences construction on or after January 1, 1975, is completed, ambient air quality levels of carbon monoxide should be significantly lower than they are presently.

3. To the extent that air quality levels at the site of a proposed indirect source are expected to continue to threaten the national standards, this condition may be due to existing adverse local traffic conditions which may be corrected. If such a situation is corrected, a facility may be allowed to construct if the owner can demonstrate that the additional induced traffic will not cause the local traffic flow to return to its initial condition.

The final regulations do not require an air quality impact analysis for indirect sources with associated parking areas beyond the first year after the source is fully operational. It is the Administrator's judgment that increased carbon monoxide emissions due to growth of mobile source activity associated with a specific indirect source (other than a

highway or airport) would be more than offset by the Federal motor vehicle control program. Moreover, to be consistent with the basic approach of these regulations, the Administrator feels that potential problems from increased traffic in the vicinity of a parking-related source which may be caused by overall community growth should be dealt with in the maintenance plans to be developed by the States. The ten-year analysis of airports and highways is still required, since the growth of mobile source activity associated with these sources may be sufficient to offset the effect of the Federal motor vehicle and aircraft control programs. For example, the analysis for airports must include not only the growth associated directly with the airport, but other commercial and industrial development occurring within three miles of the airport.

The final regulation clarifies the circumstances under which the reviewing agency may condition permits and eliminates the responsibility for the post-construction air quality monitoring by the applicant. If needed, such monitoring should be conducted by the reviewing agency. The conditions placed on a permit are limited to those measures which are necessary to ensure that air quality standards are attained and maintained.

A new paragraph (10) has been added to encourage the reviewing agency to specify the extent to which a facility could be further modified without being subject to review. This provision was added to deal with a situation in which the reviewing agency determines that even a fairly minor modification, which would not otherwise be subject to review under the regulation, could cause a violation of the national standards.

A new paragraph (12) has been added invalidating an approval to construct if the construction is not commenced within 18 months (subject to extension where justified) after receipt of approval. This is to ensure that changed conditions in the vicinity of the proposed facility would not invalidate the air quality impact calculations on which the original approval was based.

New provisions have been added to clarify responsibilities for review of Federal facilities in cases where the Administrator delegates the authority to State or local agencies to implement the indirect source review procedures. Recent court decisions and Presidential Executive Order 11752 (38 FR 34793, December 19, 1973) cast doubt on the authority of States to subject Federal facilities to permit controls. It is, therefore, necessary for the Administrator to retain responsibility for review of all Federal facilities subject to this regulation in order to carry out the provisions of Section 118 of the Act, which makes clear that Federal facilities must be subject to air pollution controls to the same extent as non-Federal facilities. (It should be noted, however, that the court decisions and Executive Order 11752 do not limit the application of State and local substantive standards and emission limitations to Federal facilities.)

Since these regulations will not be implemented until July 1, 1974, for sources commencing construction on or after January 1, 1975, the Administrator feels that it would be appropriate to allow additional written comments to be submitted in response to the promulgated regulations. All comments postmarked not later than April 1, 1974, will be considered, and where appropriate, revisions may be made to the regulations. Comments should be submitted in triplicate to the appropriate EPA Regional Office and labeled as "indirect source comments" on the envelope. Those who submitted written comments in response to the October 30 proposed regulations are encouraged to incorporate relevant portions of such previously submitted comments by reference into their new comments wherever the same point is being made.

The Administrator again strongly encourages States to utilize the time allowed by the deferred effective date to develop and submit their own indirect source review procedures, since the Clean Air Act emphasizes that States and local governments are to have the primary responsibility for the control of air pollution and because decisions involving local land use are traditionally more appropriate for State and local consideration.

As discussed above, the effective date of these regulations will be July 1, 1974, and they will be applicable to indirect sources commencing construction on or after January 1, 1975.

(Sections 110(a)(2)(B), 110(c), and 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857c-5(a)(2)(B), 1857c-5(c), and 1857g (a)))

Dated: February 14, 1974.

RUSSELL E. TRAIN,
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

§ 52.0 [Revoked]

1. In § 52.01, paragraph (f) is revoked.

2. Section 52.22 is revised to read as follows:

§ 52.22 **Maintenance of national standards.**

(a) Subsequent to January 31, 1973, the Administrator reviewed again State implementation plan provisions for insuring the maintenance of the national standards. The review indicates that State plans generally do not contain regulations or procedures which adequately address this problem. Accordingly, all State plans are disapproved with respect to maintenance because such plans do not meet the requirements of § 51.12(g) of this chapter. The disapproval applies to all States listed in Subparts B through DDD of this part. Nothing in this section shall invalidate or otherwise affect the obligations of States, emission sources, or other persons with respect to all portions of plans approved or promulgated under this part. As required by § 51.12(g) of this chapter, growth plans providing for maintenance of the national standards must be submitted by each State to the Administrator no later than June 18, 1975.

(b) *Regulation for review of new or modified indirect sources.* (1) All terms used in this paragraph but not specifically defined below shall have the meaning given them in § 52.01 of this chapter.

(i) The term "indirect source" means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a national standard. Such indirect sources include, but are not limited to:

(*a*) Highways and roads.

(*b*) Parking facilities.

(*c*) Retail, commercial and industrial facilities.

(*d*) Recreation, amusement, sports and entertainment facilities.

(*e*) Airports.

(*f*) Office and Government buildings.

(*g*) Apartment and condominium buildings.

(*h*) Education facilities.

(ii) The term "Administrator" means the Administrator of the Environmental Protection Agency or his designated agent.

(iii) The term "associated parking area" means a parking facility or facilities owned and/or operated in conjunction with an indirect source.

(iv) The term "aircraft operation" means an aircraft take-off or landing.

(v) The term "area wide air quality analysis" means a macroscale analysis utilizing the proportional modeling techniques specified in § 51.14(c) of this chapter.

(vi) The phrase "to commence construction" means to engage in a continuous program of construction including site clearance, grading, dredging, or land filling specifically designed for an indirect source in preparation for the fabrication, erection, or installation of the building components of the indirect source. For the purpose of this paragraph, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner shall be disregarded in determining whether a construction or modification program is continuous.

(vii) The phrase "to commence modification" means to engage in a continuous program of modification, including site clearance, grading, dredging, or land filling in preparation for a specific modification of the indirect source.

(viii) The term "highway section" means the development proposal of a highway of substantial length between logical termini (major crossroads, population centers, major traffic generators, or similar major highway control elements) as normally included in a single location study or multi-year highway improvement program, as set forth in 23 CFR 770.201 (38 FR 31677).

(ix) The term "Standard Metropolitan Statistical Area (SMSA)" means such area as designated by the U.S. Bureau of the Budget in the following publication: "Standard Metropolitan Statistical

Areas," issued in 1967, with subsequent amendments.

(2) The requirements of this paragraph are applicable to the following:

(i) In a SMSA:

(*a*) Any new parking facility, or other new indirect source with an associated parking area, which has a parking capacity of 1,000 cars or more; or

(*b*) Any modified parking facility, or any modification of an associated parking area, which increases parking capacity by 500 cars or more; or

(*c*) Any new highway section with an anticipated average annual daily traffic volume of 20,000 or more vehicles per day within ten years of construction; or

(*d*) Any modified highway section which will increase average annual daily traffic volume by 10,000 or more vehicles per day within ten years after modification.

(ii) Outside an SMSA:

(*a*) Any new parking facility, or other new indirect source with an associated parking area, which has a parking capacity of 2,000 cars or more; or

(*b*) Any modified parking facility, or any modification of an associated parking area, which increases parking capacity by 1,000 cars or more.

(iii) Any airport, the construction or general modification program of which is expected to result in the following activity within ten years of construction or modification:

(*a*) New airport: 50,000 or more operations per year by regularly scheduled air carriers, or use by 1,600,000 or more passengers per year.

(*b*) Modified airport: Increase of 50,000 or more operations per year by regularly scheduled air carriers over the existing volume of operations, or increase of 1,600,000 or more passengers per year.

(iv) Where an indirect source is constructed or modified in increments which individually are not subject to review under this paragraph, all such increments occurring since the effective date of this regulation, or since the latest approval hereunder, whichever date is most recent, shall be added together for determining the applicability of this paragraph.

(3) No owner or operator of an indirect source subject to this paragraph shall commence construction or modification of such source after December 31, 1974, without first obtaining approval from the Administrator. Application for approval to construct or modify shall be by means prescribed by the Administrator, and shall include a copy of any environmental impact statement which has been prepared pursuant to the National Environmental Policy Act (42 U.S.C. 4321), or any similar state or local laws or regulations. If not included in such environmental impact statement, the following information shall also be provided:

(i) For all indirect sources subject to this paragraph, other than highway sections:

(*a*) The name and address of the applicant.

(*b*) A map showing the location of the site of the indirect source and the topography of the area.

(*c*) A description of the proposed use of the site, including the normal hours of operation of the facility, and the general types of activities to be operated therein.

(*d*) A site plan showing the location of associated parking areas, points of motor vehicle ingress and egress to and from the site and its associated parking areas, and the location and height of buildings on the site.

(*e*) An identification of the principal roads, highways, and intersections that will be used by motor vehicles moving to or from the indirect source;

(*f*) An estimate, as of the date of the application, of the average daily traffic volumes, peaking characteristics, and levels of service at controlled intersections identified pursuant to paragraph (b)(3)(i)(*e*) of this section located within one-fourth mile of all boundaries of the site;

(*g*) An estimate of the average daily vehicle trips, and the peaking characteristics of such trips, required to move people to and from the source during the first year after the date all aspects of the indirect source are completed and open for business or fully operational;

(*h*) An estimate of the maximum number of vehicle trips that would occur within one-hour and eight-hour periods during the first year after the date all aspects of the indirect source are completed and open for business or fully operational.

(*i*) An estimate of the average daily traffic volumes, peaking characteristics, and levels of service that would occur at the intersections identified pursuant to paragrpah (b)(3)(i)(*e*) of this section during the first year after the date all aspects of the indirect source are completed and open for business or fully operational.

(*j*) Availability of existing and projected mass transit to service the site.

(*k*) Any additional information or documentation that the Administrator deems necessary to determine the air quality impact of the indirect source, including the submission of measured air quality data at the proposed site prior to construction or modification.

(ii) For airports:

(*a*) An estimate of the average number and maximum number of aircraft operations per day by type of aircraft during the first, fifth, and tenth years after the date of expected completion.

(*b*) A description of the commercial, industrial, residential, and other development that the applicant expects will occur within three miles of the perimeter of the airport within the first five and the first ten years after the date of expected completion.

(*c*) Expected passenger loadings at the airport.

(*d*) The information required under paragraphs (b)(3)(i)(*a*) through (*k*) of this section.

(iii) For highway sections:

(*a*) A description of the average and maximum traffic volumes for one, eight, and 24-hour time period expected within 10 years of date of expected completion; and

(*b*) An estimate of vehicle speeds for average and maximum traffic volume conditions; and

(*c*) A map showing the location of the highway section, including the location of buildings along the right-of-way.

(*d*) A description of the general features of the highway section and associated right-of-way, including the approximate height of buildings adjacent to the highway.

(*e*) Any additional information or documentation that the Administrator deems necessary to determine the air quality impact of the indirect source, including the submission of measured air quality data at the proposed site prior to construction or modification.

(iv) For indirect sources other than airports and those highway sections subject to photochemical oxidant and nitrogen dioxide analysis pursuant to paragraph (b)(6) of this section, the air quality monitoring requirements of paragraph (b)(3)(i)(*k*) of this section shall be limited to carbon monoxide, and shall be conducted for a period of not more than 14 days.

(4) (i) For indirect sources other than highway sections and airports, the Administrator shall not approve an application to construct or modify if he determines that the indirect source will:

(*a*) Cause a violation of the control strategy of any applicable state implementation plan; or

(*b*) Delay the attainment of the national standards for carbon monoxide in any region beyond the date specified for any such region in Part 52 of this chapter; or

(*c*) Cause a violation of the national standards for carbon monoxide in any region where the attainment date specified for any such region in Part 52 of this chapter will have passed at the time of completion of the indirect source.

(ii) The Administrator shall make the determination pursuant to paragraphs (b)(4)(i)(*b*) and (*c*) of this section by considering whether the construction or modification will result in traffic flow characteristics which have been determined by the Environmental Protection Agency not to cause violations of the national standards for carbon monoxide. Such traffic flow characteristics shall be published by the Environmental Protection Agency and may include, but will not be limited to, consideration of the following:

(*a*) Minimizing vehicle running time within parking lots through the use of sound parking lot design.

(*b*) Ensuring adequate gate capacity by providing for the proper number and location of entrances and exits and optimum signalization for such.

(*c*) Limiting traffic volume so as not to exceed the carrying capacity on road-

ways significantly affected by the indirect source.

(*d*) Limiting the level of service at controlled intersections significantly affected by the indirect source: *Provided*, That in those individual cases in which the Administrator finds that making the determination pursuant to paragraphs (b)(4)(i) (*b*) and (*c*) of this section on the basis of traffic flow characteristics would not be consistent with the requirements of said subdivisions, an appropriate atmospheric diffusion model shall be used to evaluate the concentration of carbon monoxide at reasonable receptor or exposure sites which are significantly affected by the mobile source activity expected to be attracted by the indirect source. In addition, the applicant may submit with his application the results of an appropriate diffusion model, if in his opinion, the traffi flow characteristics specified by the Administrator's guidelines are not necessary to meet the tests of paragraphs (b)(4)(i) (*b*) and (*c*) of this section. Any available modeling results, along with the traffic flow characteristics of the indirect source, shall be considered by the Administrator in making the determination pursuant to paragraphs (b)(4)(i) (*b*) and (*c*) of this section.

(5) (i) For airports subject to this paragraph, the Administrator shall not approve an application to construct or modify if he determines that the indirect source will:

(*a*) Cause a violation of the control strategy of any applicable state implementation plan; or

(*b*) Delay the attainment of the national standards for carbon monoxide, photochemical oxidants, and nitrogen dioxide in any region beyond the date specified for any such region in Part 52 of this chapter; or

(*c*) Cause a violation of the national standards for carbon monoxide, photochemical oxidants, and nitrogen dioxide in any region where the attainment date specified for any such region in part 52 of this chapter will have passed at the time of completion of the indirect source.

(ii) The determination pursuant to paragraphs (b)(5)(i) (*b*) and (*c*) of this section shall be made as follows:

(*a*) All emissions from stationary and mobile sources at the airport, along with emissions from the development of other new indirect sources expected to occur within three miles of the perimeter of the airport, shall be added together in order to determine the aggregate impact on air quality for the ten-year period following the expected date of completion.

(*b*) An area-wide air quality analysis, or other modeling technique approved by the Administrator, shall be used to determine the expected ambient concentrations of carbon monoxide, photochemical oxidants, and nitrogen dioxide following construction or modification.

(*c*) For highway sections and parking facilities specified under paragraph (b)(5)(2) of this section which are associated with airports, the applicable procedures specified in paragraphs (b)(4)(ii) and (6)(ii) of this section shall be used.

(6) (i) For highway sections subject to this paragraph, the Administrator shall not approve an application to construct or modify if he determines that the indirect source will:

(*a*) Cause a violation of the control strategy of any applicable state implementation plan; or

(*b*) Delay the attainment of the national standards specified for analysis pursuant to paragraph (b)(6)(ii) of this section in any region beyond the date specified for any such region in Part 52; or

(*c*) Cause a violation of the national standards specified for analysis pursuant to paragraph (b)(6)(ii) of this section in any region where the attainment date specified for any such region in Part 52 will have passed at the time of completion of the indirect source.

(ii) The determination pursuant to paragraphs (b)(6)(ii) (*b*) and (*c*) of this section shall be made as follows:

(*a*) For all highway sections subject to this paragraph, an appropriate atmospheric diffusion model shall be used to evaluate the concentration of carbon monoxide resulting from the expected maximum traffic volume of the highway section. Such evaluation shall be made at reasonable receptor or exposure sites in the vicinity of such road for the ten-year period following the expected date of completion.

(*b*) For any new highway section with an anticipated average annual daily traffic volume of 50,000 or more vehicles per day within ten years of construction, or any modification to a highway section which will increase average annual daily traffic volume by 25,000 vehicles per day or more within ten years after modification, the expected concentrations of carbon monoxide, photochemical oxidants, and nitrogen dioxide shall be estimated for the ten-year period following completion of construction or modification using an area-wide air quality analysis or other modeling technique approved by the Administrator. Such area-wide air quality analysis shall not be required for a highway section which is a part of a transportation plan and program prepared pursuant to the urban transportation planning process established under 23 U.S.C. 134, to the extent such plan and program has been determined by the appropriate Regional Administrator of the Environmental Protection Agency to be consistent with the approved state implementation plan, in connection with the procedures described in 23 CFR Part 770, Subpart B (Air Quality Guidelines).

(7) The determination of the air quality impact of a proposed indirect source "at reasonable receptor or exposure sites" shall mean such locations where people might reasonably be exposed for time periods consistent with the national ambient air quality standards for the pollutants specified for analysis pursuant to this paragraph.

(8) (i) Within 20 days after receipt of an application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (b)(8)(ii) of this section shall be the date on which the required information is received by the Administrator.

(ii) Within 30 days after receipt of an application, the Administrator shall:

(*a*) Make preliminary determination whether the indirect source should be approved, approved with conditions in accordance with paragraphs (b)(9) or (10) of this section, or disapproved.

(*b*) Make available in at least one location in each region in which the proposed indirect source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination, and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(*c*) Notify the public, by prominent advertisement in a newspaper of general circulation in each region in which the proposed indirect source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the indirect source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to officials and agencies having cognizance over the location where the indirect source will be situated, as follows: state and local air pollution control agencies, the chief executive of the city and county; any comprehensive regional land use planning agency; and for highways, any local board or committee charged with responsibility for activities in the conduct of the urban transportation planning process (3–C process) pursuant to 23 U.S.C. 134.

(iv) Public comments submitted in writing within 30 days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. All comments shall be made available for public inspection in at least one location in the region in which the indirect source would be located.

(v) The Administrator shall take final action on an application within 30 days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the indirect source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraphs (b)(8)(ii), (iv), or (v) of this section by no more than 30 days,

or such other period as agreed to by the applicant and the Administrator.

(9) Whenever an indirect source as proposed by an owner or operator's application would not be permitted to be constructed for failure to meet the tests set forth in paragraphs (b) (4) (i), (5) (i), or (6) (i) of this section, the Administrator may impose reasonable conditions on an approval related to the air quality aspects of the proposed indirect source so that such source, if constructed or modified in accordance with such conditions, could meet the tests set forth in paragraphs (b) (4) (i), (5) (i), or (6) (i), of this section. Such conditions may include, but not be limited to:

(i) Binding commitments to roadway improvements or additional mass transit facilities to serve the indirect source secured by the owner or operator from governmental agencies having jurisdiction thereof;

(ii) Binding commitments by the owner or operator to specific programs for mass transit incentives for the employees and patrons of the source; and

(iii) Binding commitments by the owner or operator to construct, modify, or operate the indirect source in such a manner as may be necessary to achieve the traffic flow characteristics published by the Environmental Protection Agency pursuant to paragraph (b) (4) (ii) of this section.

(10) Notwithstanding the provisions relating to modified indirect sources contained in paragraph (b) (2) of this section, the Administrator may condition any approval by specifying the extent to which the indirect source may be further modified without resubmission for approval under this paragraph.

(11) Any owner or operator who fails to construct and operate an indirect source in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of an indirect source subject to this paragraph who commences construction or modification thereof after December 31, 1974, without applying for and receiving approval hereunder, shall be subject to the penalties specified under section 113 of the Act and shall be considered in violation of an emission standard or limitation under Section 304 of the Act. Subsequent modification to an indirect source approved by the Administrator may be made without applying for permission pursuant to this paragraph only where such modification would not violate any condition imposed pursuant to paragraphs (b) (9) or (10) of this section.

(12) Approval to construct or modify shall become invalid if construction or modification is not commenced within 18 months after receipt of such approval. The Administrator may extend such time period upon a satisfactory showing that an extension is justified.

(13) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, State, and Federal regulations which are part of the applicable state implementation plan.

(14) Where the Administrator delegates the responsibility for implementing the procedures for conducting indirect source review pursuant to this paragraph to any agency, other than a regional office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the agency designated is not an air pollution control agency, such agency shall consult with the appropriate State or local air pollution control agency prior to making any determination required by paragraphs (b) (4), (5), or (6) of this section. Similarly, where the agency designated does not have continuing responsibilities for land use planning, such agency shall consult with the appropriate State or local land use planning agency prior to making any determination required by paragraph (b) (9) of this section.

(ii) The Administrator of the Environmental Protection Agency shall conduct the indirect source review pursuant to this paragraph for any indirect source owned or operated by the United States Government.

(iii) A copy of the notice required pursuant to paragraph (b) (8) (ii) (c) of this section shall be sent to the Administrator through the appropriate Regional Office.

Subpart B—Alabama

3. Section 52.50 is amended by revising paragraph (c) as follows:

§ 52.50 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) March 21, April 18, and April 28, 1972, by the Alabama Air Pollution Control Commission, and

(2) April 24 and September 26, 1973.

4. Section 52.53 is revised to read as follows:

§ 52.53 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Alabama's plan for the attainment and maintenance of the national standards.

5. Subpart B is amended by adding a new § 52.56, as follows:

§ 52.56 Review of new sources and modifications.

(a) The requirements of § 51.18(h) of this chapter are not met since the State's procedures for providing for public comment are not legally enforceable.

(b) *Regulation providing for public comment.* (1) Prior to approval or disapproval of the construction or modification of an indirect source, the Director shall:

(i) Make a preliminary determination whether the indirect source should be approved, approved with conditions or disapproved;

(ii) Make available in at least one location in each region in which the proposed indirect source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Director's preliminary determination, and a copy or summary of other materials, if any, considered by the Director in making his preliminary determination; and

(iii) Notify the public, by prominent advertisement in a newspaper of general circulation in each region in which the proposed indirect source would be constructed, of the opportunity for public comment on the information submitted by the owner or operator and the Director's preliminary determination on the approvability of the indirect source.

(2) A copy of the notice required pursuant to this paragraph shall be sent to the Administrator through the appropriate regional office; to all other State and local air pollution control agencies having jurisdiction in the region where the indirect source will be located; and to any other agency in the region having responsibility for implementing the procedures required under Chapter 10 of the Alabama rules and regulations.

(3) Public comments submitted in writing in 30 days of the date such information is made available shall be considered by the Director in making his final decision on the application.

Subpart C—Alaska

6. Section 52.74 is amended by adding paragraph (b), as follows:

§ 52.74 Legal authority.

* * * * *

(b) The requirements of § 51.11(a) (4) of this chapter are not met since statutory authority to prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which indirectly results or may result in emissions of any air pollutant at any location which will prevent the maintenance of a national air quality standard is not adequate.

7. Subpart C is amended by adding a new § 52.78 as follows:

§ 52.78 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met since the State of Alaska failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Alaska.

Subpart D—Arizona

8. Section 52.129 is amended by adding paragraphs (e) and (f), as follows:

§ 52.129 Review of new sources and modifications.

* * * * *

(e) The requirements of § 51.18 of this chapter are not met since the State of Arizona failed to submit a plan for review of new or modified indirect sources.

(f) *Regulations for review of new or modified indirect soruces.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Arizona.

Subpart E—Arkansas

9. In Subpart E, Section 52.177 is added as follows:

§ 52.177 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for the review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Arkansas.

Subpart F—California

10. Section 52.233 is amended by adding paragraphs (h) and (i), as follows:

§ 52.233 Review of new sources and modifications.

* * * * *

(h) The requirements of § 51.18 of this chapter are not met since the State of California failed to submit a plan for review of new or modified indirect sources.

(i) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of California.

Subpart G—Colorado

11. In Subpart G, § 52.340 is added as follows:

§ 52.340 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for the review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Colorado.

Subpart H—Connecticut

12. In § 52.370, paragraph (c) is revised to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) Supplemental information was submitted on March 21, April 6, and August 10, 1972, and January 9, 1974, by the Connecticut Department of Environmental Protection.

13. Section 52.373 is revised to read as follows:

§ 52.373 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Connecticut's plan for the attainment and maintenance of the national standards.

14. Subpart H is amended by adding a new § 52.375 as follows:

§ 52.375 Review of new sources and modifications.

(a) Because of the late submission of Connecticut's plan for review of new or modified indirect sources, the public has not had adequate opportunity to comment on its approvability. Therefore, the Administrator disapproves this portion of the plan pending completion of the public comment period and the Administrator's final evaluation of the plan.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Connecticut.

Subpart I—Delaware

15. Section 52.422 is revised to read as follows:

§ 52.422 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Delaware's plan for attainment and maintenance of the national standards.

16. Subpart I is amended by adding § 52.426 as follows:

§ 52.426 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Delaware.

Subpart J—District of Columbia

17. Subpart J is amended by adding § 52.478 as follows:

§ 52.478 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the District failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the District of Columbia.

Subpart K—Florida

18. In § 52.520 paragraph (c) is revised to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) Supplemental information was submitted on April 10 and May 5, 1972, and on June 1, August 6 and September 25, 1973, by the State of Florida Department of Pollution Control.

Subpart L—Georgia

19. Section 52.572 is revised to read as follows:

§ 52.572 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Georgia's plan for the attainment and maintenance of the ntional standards. maintenance of the national standards.

20. Subpart L is amended by adding § 52.574, as follows:

§ 52.574 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met since the State failed to submit a plan for the review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Georgia.

Subpart M—Hawaii

21. In § 52.623, the first sentence is revised to read as follows:

§ 52.623 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Hawaii's plan for the attainment and maintenance of the National standards.

* * *

22. Subpart M is amended by adding a new § 52.629, as follows:

§ 52.629 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met since the State of Hawaii failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Hawaii.

Subpart N—Idaho

23. In § 52.670, paragraph (c) is revised to read as follows:

§ 52.670 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) February 23, April 12, and May 26, 1972, by the Idaho Air Pollution Control Commission, and

(2) March 2, May 5, and June 9, 1972, and February 15, July 23, and October 16, 1973.

24. Subpart N is amended by adding a new § 52.679, as follows:

§ 52.679 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met since the plan does not set forth legally enforceable procedures for preventing construction or modification of an indirect source if such construction or modification will result in a violation of applicable portions of the control strategy or will interfere with attainment or maintenance of a national standard.

(b) *Regulation for review of new or modified indirect source.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Idaho.

Subpart O—Illinois

25. Subpart O is amended by adding § 52.736 as follows:

§ 52.736 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Illinois.

Subpart P—Indiana

26. Section 52.780 is amended by adding paragraphs (e) and (f) as follows:

§ 52.780 Review of new sources and modifications.

* * * * *

(e) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for review of new or modified indirect sources.

(f) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) are hereby incorporated by reference and made a part of the applicable implementation of the plan for the State of Indiana.

Subpart Q—Iowa

27. Section 52.824 is amended by adding paragraph (b), as follows:

§ 52.824 Legal authority.

* * * * *

(b) The requirements of § 51.11(a)(4) of this chapter are not met since statutory authority to prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which indirectly results or may result in emissions of any air pollutant at any location which will prevent the maintenance of a national air quality standard is not adequate.

28. Subpart Q is amended by adding a new § 52.830, as follows:

§ 52.830 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Iowa.

Subpart R—Kansas

29. Section 52.874 is amended by adding paragraph (c), as follows:

§ 52.874 Legal authority.

* * * * *

(c) The requirements of § 51.11(a)(4) of this chapter are not met since statutory authority to prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which indirectly results or may result in emissions of any air pollutant at any location which will prevent the maintenance of a national air quality standard is not adequate.

30. Subpart R is amended by adding a new § 52.878, as follows:

§ 52.878 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Kansas.

Subpart S—Kentucky

31. In § 52.920, paragraph (c) is revised to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) March 6 and May 3, 1972, by the Kentucky Air Pollution Control Office, and

(2) March 17 and June 7, 1972, and December 5, 1973.

32. Subpart S is amended by adding § 52.928, as follows:

§ 52.928 Review of new sources and modifications.

(a) Because of the late submission of Kentucky's plan for review of new or modified indirect sources, the public has not had adequate opportunity to comment on its approvability. Therefore, the Administrator disapproves this portion of the plan pending completion of the public comment period and the Administrator's final evaluation.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Kentucky.

Subpart T—Louisiana

33. Section 52.976 is amended by adding paragraphs (c) and (d), as follows:

§ 52.976 Review of new sources and modifications.

* * * * *

(c) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for the review of new or modified indirect sources.

(d) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Louisiana.

Subpart U—Maine

34. In Section 52.1020, paragraph (c) is revised to read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) Supplemental information was submitted on July 28, 1972, and September 25, 1973, by the Environmental Improvement Commission, State of Maine.

* * * * *

35. Section 52.1022 is revised to read as follows:

§ 52.1022 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Maine's plan for attainment and maintenance of the national standards.

36. Subpart U is amended by adding a new § 52.1026, as follows:

§ 52.1026 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the plan does not provide legally enforceable procedures that adequately prevent construction or modification of sources which would indirectly interfere with the attainment or maintenance of national ambient air quality standards.

(b) *Regulation for review of new or modified indirect sources.* The provisions of 52.22(b) are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Maine.

Subpart V—Maryland

37. Subpart V is amended by adding § 52.1076 as follows:

§ 52.1076 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Maryland.

Subpart W—Massachusetts

38. Subpart W is amended by adding a new § 52.1124 as follows:

§ 52.1124 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Massachusetts.

Subpart X—Michigan

39. Section 52.1176 is amended by adding paragraphs (c) and (d) as follows:

§ 52.1176 Review of new sources and modifications.

* * * * *

(c) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for review of new or modified indirect sources.

(d) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Michigan.

Subpart Y—Minnesota

40. Subpart Y is amended by adding § 52.1225 as follows:

§ 52.1225 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Minnesota.

Subpart Z—Mississippi

41. Section 52.1272 is revised to read as follows:

§ 52.1272 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Mississippi's plan for attainment and maintenance of the national standards.

42. Subpart Z is amended by adding new §§ 52.1275 and 52.1276, as follows:

§ 52.1275 Legal authority.

(a) The requirements of § 51.11(a)(4) of this chapter are not met since statutory authority to prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which indirectly results or may result in emissions of any air pollutant at any location which will prevent the maintenance of a national air quality standard is not adequate.

§ 52.1276 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Mississippi.

Subpart AA—Missouri

43. Section 52.1325 is amended by adding paragraph (c), as follows:

§ 52.1325 Legal authority.

* * * * *

(c) The provisions of § 51.11(a)(4) of this chapter are not met since statutory authority to prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which indirectly results or may result in emissions of any air pollutant at any location which will prevent the maintenance of a national air quality standard is not adequate.

44. Subpart AA is amended by adding a new § 52.1328, as follows:

§ 52.1328 Review of new sources or modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporatd by reference and made a part of the applicable implementation plan for the State of Missouri.

Subpart BB—Montana

45. In Subpart BB, § 52.1374 is added as follows:

§ 52.1374 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for the review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Montana.

Subpart CC—Nebraska

46. Section 52.1428 is amended by adding paragraphs (f) and (g), as follows:

§ 52.1428 Review of new sources and modifications.

* * * * *

(f) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for review of new or modified indirect sources.

(g) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Nebraska.

Subpart DD—Nevada

47. Section 52.1478 is amended by adding paragraphs (c) and (d), as follows:

§ 52.1478 Review of new sources and modifications.

* * * * *

(c) The requirements of § 51.18 of this chapter are not met since the State of Nevada failed to submit a plan for review of new or modified indirect sources.

(d) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Nevada.

Subpart EE—New Hampshire

48. In § 52.1520, paragraph (c) is revised to read as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) Supplemental information was submitted on February 23, March 23, and August 8, 1972, and on February 14, April 3, May 17, and December 13, 1973, by the New Hampshire Air Pollution Control Agency.

49. Subpart EE is amended by adding a new § 52.1525, as follows:

§ 52.1525 Review of new sources and modifications.

(a) Because of the late submission of New Hampshire's plan for review of new or modified indirect sources, the public has not had adequate opportunity to comment on its approvability. Therefore, the Administrator disapproves this portion of the plan pending completion of the public comment period and the Administrator's evaluation of the plan.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of New Hampshire.

Subpart FF—New Jersey

50. In Subpart FF, § 52.1578 is added as follows:

§ 52.1578 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for the review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of New Jersey.

Subpart GG—New Mexico

51. In Subpart GG, § 52.1628 is added as follows:

§ 52.1628 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for the review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of New Mexico.

Subpart HH—New York

52. In § 52.1670, paragraph (c)(2) is revised to read as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) ***

(2) April 17, 19 and 30, May 2, 16 and 21, June 11, and August 15, 1973.

53. In Subpart HH, § 52.1680 is added as follows:

§ 52.1680 Review of new sources and modifications.

(a) Part 201.4(b) of Subchapter A, Chapter III, Title 6 of New York State's Official Compilation of Codes, Rules and Regulations is disapproved because it allows issuance of provisional permit to construct if undue hardship or delay would be caused in meeting the requirements of Parts 201.2 and 201.3.

(b) The requirements of § 51.18 (c)(1), (c)(2), (h)(1), and (h)(2)(iii) of this chapter are not met because the plan does not provide legally enforceable procedures for the submission of information to determine whether construction or modification of an indirect source will result in a violation of applicable portions of the control strategy or will interfere with the attainment or maintenance of a national standard, and it does not provide for public notice of or comment on the analysis by the Department of Environmental Conservation of the effect of construction or modification on ambient air quality.

(c) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of New York.

Subpart II—North Carolina

54. Section 52.1770 is amended by revising paragraph (c) as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) Supplemental information was submitted on May 5 and 9, 1972, and on February 13, 14, March 2, April 24, and October 5, 1973, by the Air Quality Division of the North Carolina Department of Natural and Economic Resources.

55. Subpart II is amended by adding a new § 52.1775, as follows:

§ 52.1775 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the plan does not provide legally enforceable procedures that adequately prevent construction or modification of sources which would indirectly interfere with the attainment or maintenance of national ambient air quality standards.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of North Carolina.

Subpart JJ—North Dakota

56. Section 52.1822 is revised to read as follows:

§ 52.1822 Approval status.

With the exceptions set forth in this subpart, the Administrator approves the North Dakota plan for the attainment and maintenance of the national standards.

57. In Subpart JJ, § 52.1824 is added as follows:

§ 52.1824 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for the review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of North Dakota.

Subpart KK—Ohio

58. Section 52.1873 is revised to read as follows:

§ 52.1873 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Ohio's plan for attainment and maintenance of the national standards.

59. Subpart KK is amended by adding § 52.1879 as follows:

§ 52.1879 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Ohio.

Subpart LL—Oklahoma

60. Section 52.1922 is revised to read as follows:

§ 52.1922 Approval status.

With the exceptions set forth in this subpart, the Administrator approves the Oklahoma plan for the attainment and maintenance of the national standards.

61. In Subpart LL, Section 52.1924 is added as follows:

§ 52.1924 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for the review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Oklahoma.

Subpart MM—Oregon

62. In § 52.1970, paragraph (c) is revised to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) May 3 and October 26, 1972, and April 13, and September 21, 1973, and

(2) August 10, 1972, and February 9, May 30, June 8, 22, and 25, July 17, and August 3, 20, and 27, 1973, by the Department of Environmental Quality.

63. Subpart MM is amended by adding a new § 52.1982, as follows:

§ 52.1982 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met since the plan does not set forth legally enforceable procedures for preventing construction or modification of an indirect source if such construction or modification will result in a violation of applicable portions of the control strategy or will interfere with attainment or maintenance of a national standard.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Oregon.

Subpart NN—Pennsylvania

64. Subpart NN is amended by adding § 52.2055 as follows:

§ 52.2055 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Pennsylvania.

Subpart OO—Rhode Island

65. Section 52.2074 is amended by adding paragraph (c), as follows:

§ 52.2074 Legal authority.

* * * * *

(c) The requirements of § 51.11(a)(4) of this chapter are not met since statutory authority to prevent construction, modification or operation of a facility, building, structure, or installation, or combination thereof, which indirectly results or may result in emissions of any air pollutant at any location which will prevent the maintenance of a national air quality standard is not adequate.

66. Subpart OO is amended by adding a new § 52.2081, as follows:

§ 52.2081 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the

State failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Rhode Island.

Subpart PP—South Carolina

67. Section 52.2124 is amended by adding paragraph (d) as follows:

§ 52.2124 Legal authority.

* * * * *

(d) The requirements of § 51.11(a)(4) of this chapter are not met since statutory authority to prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which indirectly results or may result in emissions of any air pollutant at any location which will prevent the maintenance of a national air quality standard is not adequate.

68. Subpart PP is amended by adding a new § 52.2125, as follows:

§ 52.2125 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of South Carolina.

Subpart QQ—South Dakota

69. In Subpart QQ, Section 52.2175 is added as follows:

§ 52.2175 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for the review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of South Dakota.

Subpart RR—Tennessee

70. Section 52.2224 is amended by adding paragraph (b) as follows:

§ 52.2224 Legal authority.

* * * * *

(b) The requirements of § 51.11(a)(4) of this chapter are not met since statutory authority to prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which indirectly results or may result in emisions of any air pollutant at any location which will prevent the maintenance of a national air quality standard is not adequate.

71. Subpart RR is amended by adding § 52.2228, as follows:

§ 52.2228 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met since the State failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Tennesee.

Subpart SS—Texas

72. In Subpart SS, § 52.2299 is added as follows:

§ 52.2299 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for the review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Texas.

Subpart TT—Utah

73. In Subpart TT, Section 52.2328 is added as follows:

§ 52.2328 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for the review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Utah.

Subpart UU—Vermont

74. In § 52.2370, paragraph (c) is revised to read as follows:

§ 52.2370 Identification of plan.

* * * * *

(c) Supplemental information was submitted on February 3 and May 19, 1972, and November 30, 1973, by the Vermont Agency of Environmental Conservation.

75. Subpart VV is amended by adding a new § 52.2377, as follows:

§ 52.2377 Review of new sources and modifications.

(a) Because of the late submission of Vermont's plan for review of new or modified indirect sources, the public has not had adequate opportunity to comment on its approvability. Therefore, the Administrator disapproves this portion of the plan pending completion of the public comment period and the Administrator's evaluation of the plan.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Vermont.

Subpart VV—Virginia

76. In § 52.2420, paragraph (c)(2) is revised to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(2) April 11, May 30, July 9, July 11, and December 6, 1973.

77. Subpart VV is amended by adding § 52.2448 as follows:

§ 52.2448 Review of new sources and modifications.

(a) Because of the late submission of Virginia's plan for review of new or modified indirect sources, the public has not had adequate opportunity to comment on its approvability. Therefore, the Administrator disapproves this portion of the plan pending completion of the public comment period and the Administrator's evaluation of the plan.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Virginia.

Subpart WW—Washington

78. In § 52.2470, paragraph (c) is revised to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) January 28, May 5, July 19, and September 11, 1972, and February 15, April 13, and October 11, 1973, and

(2) December 12, 1972 and July 31, 1973, by the State of Washington Department of Ecology.

79. Subpart WW is amended by adding a new § 52.2495, as follows:

§ 52.2495 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met since the plan does not include legally enforceable procedures for preventing construction or modification of an indirect source if such construction or modification will result in a violation of applicable portions of the control strategy.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Washington.

Subpart XX—West Virginia

80. Subpart XX is amended by adding § 52.2525 as follows:

§ 52.2525 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of West Virginia.

Subpart YY—Wisconsin

81. Subpart YY is amended by adding § 52.2579 as follows:

§ 52.2579 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Wisconsin.

Subpart ZZ—Wyoming

82. Section 52.2625 is amended by adding paragraphs (c) and (d), as follows:

§ 52.2625 Review of new sources and modifications.

* * * * *

(c) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for the review of new or modified indirect sources.

(d) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the State of Wyoming.

Subpart AAA—Guam

83. Section 52.2670 is amended by adding paragraph (c) as follows:

§ 52.2670 Identification of plan.

* * * * *

(c) Supplemental information was submitted on August 14, 1973.

Subpart BBB—Puerto Rico

84. Section 52.2722 is revised to read as follows:

§ 52.2722 Approval status.

With the exceptions set forth in this subpart, the Administrator approves the Puerto Rico plan for the attainment and maintenance of the national standards.

85. In Subpart BBB, Section 52.2724 is added as follows:

§ 52.2724 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for the review of new or modified indirect sources.

(b) *Regulation for review of new or modified indirect sources.* The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the Territory of Puerto Rico.

Subpart CCC—U.S. Virgin Islands

86. Section 52.2775 is amended by adding paragraphs (c) and (d), as follows:

§ 52.2775 Review of new sources and modifications.

* * * * *

(c) The requirements of § 51.18 of this chapter are not met because the State failed to submit a plan for the review of new or modified indirect sources.

(d) Regulation for review of new or modified indirect sources. The provisions of § 52.22(b) of this chapter are hereby incorporated by reference and made a part of the applicable implementation plan for the U.S. Virgin Islands.

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PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

HYPOALLERGENIC COSMETICS

Proposed Definition

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1]

HYPOALLERGENIC COSMETICS

Proposed Definition

Cosmetics designated as "non-allergenic" appeared in the market place in the 1930's when it became known that cosmetic products were producing allergic reactions in some users. The term "non-allergenic" was soon abandoned as misleading because it implied complete absence of allergenic potential (e.g., Trade Correspondence No. 10, August 2, 1939, on file in the office of the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852), and was replaced with the designation "hypoallergenic".

The dictionary defines "hypo" to mean "under", "beneath", "down", "less than normal", of "the lowest position in a series of compounds." The term "hypoallergenic" as used for cosmetics therefore was meant to denote that hypoallergenic products caused fewer reactions than the conventional products. The manufacturers of hypoallergenic cosmetics expected to reduce the number of reactions in individuals with sensitive skin by omitting from cosmetic products certain ingredients which were known to cause reactions, or by using ingredients believed to be of higher purity than those ordinarily used in other products.

Use of the term "hypoallergenic" expanded considerably over the years, while the difference between "hypoallergenic" cosmetics and those not so labeled became less distinct with advancing knowledge in dermatology and cosmetic science. Reactions to cosmetic products have become rarer than they once were because problem ingredients are more readily recognized through new dermatological testing procedures and can be more easily avoided in cosmetic formulations because of the availability of many substitutes of similar chemical and physical properties.

The term "hypoallergenic" as it is used today by the cosmetic industry does not have a uniform and well-defined meaning. Many manufacturers simply omit known problem ingredients or perfumes from their product formulations. Some manufacturers perform patch testing with the finished product in various sizes of panels of individuals and according to various testing procedures and label their product "hypoallergenic" depending upon the results. Some manufacturers use the term "hypoallergenic" on the basis of a low rate of true allergic reactions and others on the basis of all adverse reactions encountered during such testing or reported by users after the product has been marketed.

The average consumer lacks sufficient medical knowledge to distinguish between a reaction that results from allergenicity (sensitization), irritation, or some combination of these. The term "hypoallergenic" is applied by industry to cover a wide variety of concepts. Thus, it is apparent that there is substantial uncertainty and confusion about the meaning of the term "hypoallergenic," and that a significant number of persons believe that it means that a product will result in fewer adverse reactions of all types, without distinguishing among them. This is particularly important in view of the tendency for self-diagnosis and self-medication, and the prevalent view that anything is worth a try in solving personal health problems, found in the study of health practices and opinions conducted for the Food and Drug Administration. Since it is a standard principle that support must be available for all reasonable interpretations of an ambiguous or uncertain term, the Commissioner interprets "hypoallergenic" as referring to fewer total reactions. The Commissioner requests the submission of any data or information that shows that consumers do not, or are unlikely to, interpret the term "hypoallergenic" to refer to all types of adverse reactions, and that consumers understand the difference and are able to distinguish between allergic (sensitization) and irritation reactions.

There is no general agreement of the degree of reduction in the frequency of adverse reactions which must be achieved before a product may be properly labeled "hypoallergenic", or on the nature of the testing needed to establish the validity of such a claim. Those manufacturers of "hypoallergenic" cosmetics who do carry out clinical testing differ greatly in the number of subjects they consider appropriate for such tests, and none is known to include in the testing a competitive reference product. Neither the degree of reduction in the frequency of reactions between the reference product and the test product nor the number of clinical subjects used in such tests may be sufficient to be representative of the total population and hence have statistical significance.

For some manufacturers, the ingredient information and testing service they offer to physicians on their "hypoallergenic" products represents the most important distinguishing characteristic of these products. These services permit a dermatologist more readily to identify a problem ingredient, and whether or not the product is less likely to produce reactions than competing products.

The Committee on Cutaneous Health and Cosmetics of the American Medical Association has stated in a recent communication (letter of June 1, 1973, on public display in the office of the Hearing Clerk) that the term "hypoallergenic" as applied to cosmetics has outlived its usefulness, is misleading, and should be dropped from the labeling of cosmetic products.

Whatever distinction between "hypoallergenic" and conventional products may once have existed appears to have become markedly obscured. The Commissioner acknowledges, however, that there may well be instances when a "hypoallergenic" claim as it is conceived by the consumer today is valid. In view of the lack of adequate quantitative data on the extent to which reactions are reduced in frequency by cosmetics labeled as "hypoallergenic," and because of the inconsistencies in the meaning of this term as presently used, the Commissioner concludes that it would be in the best interest of consumers to propose a definition for the term "hypoallergenic" which can be used in product labeling in a meaningful and uniform way. Since the term "hypoallergenic" means to the consumer that the product causes fewer adverse reactions than other, similar-use type products, the Commissioner proposes that this criterion be adopted as the basis for a definition of the term.

Other terminology, such as "allergy tested", "lower rate of reactions", "safer for sensitive skin", or phrases containing such words as "allergy", "irritation", or "sensitivity" in their text denote substantially the same claim as the term "hypoallergenic" or imply complete absence of allergenic potential. If any terminology used connotes a hypoallergenic claim, the requirements imposed upon use of the term "hypoallergenic" must also be applied to these similar terms or phrases. Terms and phrases implying that the cosmetic is nonallergenic or free from reactions or completely safe are deemed to be false or misleading and render the product misbranded. The Commissioner does not propose to ban true statements that such products have been medically tested and shown to be hypoallergenic.

Claims of hypoallergenicity made for one or more individual ingredients, even if substantiated individually for these ingredients, is deemed misleading unless the product itself is proven to be hypoallergenic pursuant to the proposed regulation. The characteristics of specific ingredients do not necessarily determine the characteristics of the end product.

There is currently no uniformly accepted scientific reference standard against which the reactions resulting from diverse cosmetic product formulations and usages can be assessed. This product diversity dictates that each cosmetic usage must have its own standard. Thus, the only practical standard is comparison of a product with other competitive similar usage products under the product categories specified in 21 CFR 172.5(c). It is therefore proposed that a claim of hypoallergenicity for a product shall be considered justified on the basis of a statistically significant reduction in total adverse reactions when compared with competitive products.

A manufacturer or distributor who makes any claim with respect to the attributes of his product as compared with competitive products is required by law to have adequate scientific substantiation for that claim at any point in time. The Commissioner recognizes, however, that rigid application of this requirement would preclude the marketing of hypoallergenic cosmetics because of the large amount of continual testing that would be required. Accordingly, the Commissioner is proposing to waive this require-

ment under the following conditions. A claim of hypoallergenicity, once justified by the type of scientific testing established by the proposal, will be deemed to be valid for a period of five years from the date of submission of the results of the testing to the Food and Drug Administration, if there is no subsequent change in the formula of the product, if the product is tested against the reference product or products specified in the proposal, if all records of any tests, results and evaluations, irrespective of their outcome, comparing the test product with competitive products with regard to frequency of adverse reactions are submitted to the Food and Drug Administration for public display, and if no data submitted at any time to the Food and Drug Administration from other sources demonstrates that such claim is not reasonably applicable. By obtaining such results and placing them on public display, the Food and Drug Administration will be encouraging such testing by all interested persons and fostering the development of cosmetics with the lowest possible potential for adverse reactions. Any product which fails to meet any of these conditions will be subject to the existing legal requirement that its hypoallergenic claim must be proved against all existing formulas of competitive products in the marketplace at every point in time.

In order properly to infer that a product will be less likely to cause adverse reactions in the general population of users than one or more reference products, it is essential that the reference product(s) represent a significant portion of users. Where a small number of products in a given usage category have market predominance, the sales leaders will represent a significant portion of users and the comparison will be with one of such sales leaders. The proposed regulation also provides for testing against each of any number of similar-use products representing a combined market share of at least 10 percent of the similar-usage cosmetic market, which also represents a significant portion of users. In those cases where more than one reference product is required to achive the 10 percent figure, multiple comparisons will be necessary.

By permitting these two alternatives for selection of reference product(s), it is anticipated that no cosmetic manufacturer will have undue difficulty in deciding on reasonable reference products. Readily available market research data will facilitate the selection of an appropriate reference product(s).

The adverse reaction potential, or lack thereof, of an ingredient or product can be readily determined through the use of one of a number of well-established dermatological testing methods. Examples of recognized testing procedures that have been found useful for the determination of irritation and sensitization in man have been described in Cosmetics, Science and Technology," Interscience Publications, Inc., New York, NY, 1957, chapter 49 "Sensitivity Testing," and A. M. Kligman, "The Identification of Contact Allergens by Human Assay," "Journal of Investigative Dermatology" 47: 369–409 (1966), copies of which are on public display in the office of the Hearing Clerk. The designation of a single permitted dermatological test protocol for comparison testing is not considered necessary. The selection of an appropriate testing procedure will therefore be at the discretion of the investigator. Any recognized procedure will be acceptable for the purpose of justifying a "hypoallergenic" claim as long as the product to be labeled "hypoallergenic" and the reference product are tested in exactly the same manner.

Since comparison testing is utilized, any shortcomings in the test method will be balanced between the test and reference product. However, the test procedure must be adequate to avoid significant bias in effects. Comparison testing may involve either two comparable human subject test groups or, if medically and statistically sound under the circumstances, a single human subject test group subjected to both the test and reference product (paired testing).

Paired testing requires fewer individuals to detect the same response difference statisticaly, and hence is more economical, but also requires a more elaborate data collection effort. The choice of technique is therefore left to the manufacturer.

Cosmetic industry experience indicates that the frequency of adverse reactions to most cosmetic products is relatively small for the general population of users. Thus, if comparison tests were made utilizing only normal subjects, an impractically large number of subjects would be required for detection of a statistically significant difference in the relative frequencies of reactions. It is therefore appropriate to provide for the use of test subjects with prior histories of reactions. For such individuals, the relative frequency of reactions would be expected to be greater than that for normal subjects, particularly if they are selected on the basis of a history of reactions to similar-use products. Hence, the number of subjects required to demonstrate a statistically significant difference in reactions would be expected to be smaller. Such a choice of test subjects is logical since hypoallergenic products are primarily intended for use by such individuals.

The Commissioner believes that, as with all research on human subjects, it is essential that informed consent be obtained prior to a subject's participation in a study testing for reactions to cosmetics and that the study protocol or plan be reviewed and approved by a local review committee established to supervise testing on human subjects. Because these requirements are applicable to all human testing conducted on products subject to the jurisdiction of the Food and Drug Administration, the Commissioner has concluded that this matter should be handled on a comprehensive basis rather than including these requirements in this and other specific regulations which relate to a limited type of testing or product.

Although comparison testing will likely be carried out on subjects with an expected higher-than-normal relative frequency of reactions, the required number of subjects cannot be precisely predicted in advance. The number of subjects required to demonstrate a statistically significant difference in response rates depends on the true response rates for the particular product usage. A uniform requirement on the number of test subjects could lead to results which would not be statistically significant. In order to maintain a common baseline for what constitutes a statistically significant difference, it is proposed that a probability level for statistical significance of 95 percent will be required, i.e., the relative frequency of response observed for the test product must be sufficiently less than for the reference product so as to statistically reject the hypothesis of no difference in relative frequencies at the 5 percent level of significance.

In the course of defining what constitutes a significant difference in comparative testing, consideration was given to both the numerical difference in responses as well as the difference with regard to the degree of severity of an adverse reaction. Since the latter is strongly influenced by subjective judgment, and readings may vary considerably from one investigator or test to the next, and since a rate of reaction in a test application is not necessarily indicative of the magnitude of a reaction under conditions of use of the product, it is proposed that, for the purpose of these studies, severity of an adverse reaction should not be given statistical consideration and that any response be defined as meaning exclusively the numerical response.

The definition of the term "response" is further complicated by the fact that, in the case of multiple product applications in the course of comparative testing, i.e., repeated insult patch testing, reactions may occur only once during testing, may occur only occasionally in a sequence of applications, or may occur at various stages of testing and then persist during the remainder of the test series. Since statistical treatment of such variables would place an undue burden on the evaluation process and not provide significant support to the determination of the difference in responses under actual conditions of use of the product(s), it is further proposed that, for the purpose of these studies, no statistical consideration be given to the time and number of occurrences of adverse reactions in the case of repeated insult testing. A response is therefore counted as one if it occurs at any time in the course of repeated insult testing.

Most firms distributing cosmetics labeled as "hypoallergenic" usually market a number of different products with this label designation. For this reason, and because of the complexity of the dermatological testing procedures necessary to determine the irritation potential, and more so the allergenicity of a cosmetic product, the Commissioner proposes to permit such firms to continue use of a "hypoallergenic" claim for a pe-

riod of two years before this regulation becomes fully effective. This time period will be sufficient to conduct test studies sufficient to prove or disprove the "hypoallergenic" claim. Any claim disproved during that period must, of course, promptly be discontinued.

Qualitative and quantitative changes in a formulation, including changes in the purity or composition of the cosmetic ingredients which were used at the time of testing, or any other changes in the manufacture and packaging of the cosmetic which would be likely to affect the product's composition or stability, will invalidate a "hypoallergenic" claim supported by testing. The changed formulation must then again meet all of the applicable requirements of the regulation.

If a "hypoallergenic" claim is initially supported by testing, and is then disproved by subsequent testing, a recall of the product from the market will not be required. In some instances, e.g., where a second manufacturer conducts a test and obtains data that conflicts with the "hypoallergenic" cosmetic manufacturer's test, it may or may not be necessary to conduct additional testing in order to determine the validity of the claim. The Food and Drug Administration will determine, upon review of any data which question the validity of a "hypoallergenic" claim, whether additional testing is required to resolve the issue. If additional testing is determined to be necessary, the manufacturer of the "hypoallergenic" product will be provided 30 days to make a commitment to undertake such testing. If such an undertaking is made, the manufacturer will then have 150 days to complete the testing and to submit the results. Any dispute with respect to the proper interpretation of such tests shall be resolved in writing by the Commissioner.

1. Because of the complexities involved in establishing a workable definition of "hypoallergenic" cosmetics, the Commissioner wishes to have the comments of all interested persons regarding the definition herein proposed. In order to encourage fuller discussion and comment, he is publishing the views on this subject as submitted recently to the FDA by the Cosmetic, Toiletry and Fragrance Association (CTFA) and by Almay Corporation, notwithstanding the fact that they are not in the form of specific regulatory proposals. A copy of their communications is on public display in the office of the Hearing Clerk.

a. CTFA states as follow:

The development and marketing of cosmetic products which are designed, formulated, tested, marketed, manufactured and monitored for the purpose of minimizing the incidence for allergic response to the product in (a) individuals with a history of allergic reaction and (b) to the normal population, serves an important public interest.

Members of the public who suffer from a history of allergic reactions have a valid and important interest in being able to identify those cosmetic products for which special steps are taken to reduce the incidence of allergic reaction.

Similarly, members of the public generally who wish to minimize the incidence of an allergic reaction should be permitted to do so. It is therefore in the public interest to encourage the development and marketing of such special products and to identify those products to consumers.

Of course, manufacturers and distributors of cosmetic products have a built-in incentive to reduce the potential for allergic reactions to any cosmetic products. But there is no demostrated need nor is it practicable for the minimizing of allergic reactions to be an overriding consideration in all aspects of production and marketing of every cosmetic product. In particular, it is neither reasonable nor necessary for every cosmetic product to be designed for highly allergic persons, at least when such persons are protected by identification of those cosmetic products which are especially designed to minimize allergic reactions.

To protect consumers with a history of allergic reactions and to offer a choice to other members of the public, it is desirable to establish a definition of "hypoallergenic" and similar terms as applied to cosmetic products. CTFA proposes adoption of the following definition, which covers all aspects of the delivery of such cosmetic products to the public—manufacturing, formulation, testing, marketing and monitoring.

This definition of "hypoallergenic" goes beyond defining the obligations of the manufacturer and/or distributor with respect to the product involved. It provides for the establishment of an expert panel of scientists, composed of members of industry and academia, to determine appropriate predictive skin testing methods for hypoallergenic products. CTFA anticipates that such a panel could be appointed and could develop appropriate standards and testing procedures within a few months after adoption of the proposed definition. Development of such standards and tests would assure that efforts made by manufacturers and/or distributors to develop hypoallergenic products for consumers who need or desire them would be judged by objective, scientifically determined standards and tests.

A product labeled hypoallergenic or one using terms having similar meaning is one designed, formulated, tested, manufactured, marketed and monitored for the purpose of minimizing:

1. The incidence of allergic response in individuals with a history of allergic reactions.

2. The risk of allergic induction to the normal population.

To accomplish this, the product is formulated using ingredients with a low allergic inducing capability. Prior to marketing, the product is subjected to predictive skin testing to determine its degree of allergic potential. Such tests must demonstrate the product's low allergic potential.

A constant monitoring of consumer product experience must take place. It is incumbent upon the manufacturer and/or distributor, as appropriate, to encourage consumer and physician cooperation in this monitoring effort.

An expert panel of scientists, composed of members of industry and academia, will be convened under CTFA auspices to determine appropriate methods for predictive skin testing of hypoallergenic products.

b. Almay Corporation objects to any requirement that "hypoallergenic" cosmetics be tested for their allergenicity against standard marketed cosmetics for which no such claim is made. The company states that such an approach is impractical and unenforceable. A manufacturer would be unable to determine whether competing products had changed their formula or whether the competing products against which its own products were tested are even a representative batch of the competitive product. A competing product which was in fact "hypoallergenic" might choose not to make that claim, thus denying the use of the claim for any cosmetic in that product category. Almay expresses concern that a requirement of comparative testing could, because of these problems, deprive the consumer of a ready means for differentiating between a product that is hypoallergenic and one that is not. The company agrees that a Standard for hypoallergenic cosmetics is desirable but opposes comparative testing. The company suggests the following alternative approach:

A product labeled hypoallergenic or one using terms having similar meaning is one designed, formulated, marketed and monitored for the purpose of minimizing:

1. The incidence of allergic response in individuals with a history of allergic reactions.

2. The risk of allergic induction to the normal population.

In addition, because the consumer does not have a technical, precise understanding of the term hypoallergenic as applied to cosmetics, a product so labeled must demonstrate a minimum irritancy commensurate with the product function.

To fulfill the requirement of the above definition the following types of studies must be performed:

I. *Allergic contact dermatitis test.* The first category of tests is to determine the potential to cause allergic contact dermatitis. This is a dermatitis occurring in certain individuals who develop an immunologically mediated response to contact with some chemical substances.

The standard method for predicting a propensity of a substance to produce allergic contact dermatitis is one or another variant of the classic Draize test.

The standard assay involves the use of approximately 200 subjects who are exposed for approximately 24–48 hours to a patch test made with an occlusive patch. A new patch is applied three times weekly, for a total of ten applications, which is followed in turn by a rest period, with a final challenge patch test.

The limitations involved with the use of such an assay can be significantly minimized if the person under whose supervision the tests are being run has an overall view of the entire hypoallergenic cosmetic formulation. This will decrease the likelihood of a false negative response. In other words, if such a person has before him the existing data on the ingredients in a hypoallergenic cosmetic and if he is experienced in the conduct of this test, it should be permissible to feel confident that he has avoided the likelihood of false negative responses.

II. *Photoallergic contact dermatitis test.* This dermatitis refers to an allergic contact dermatitis condition that is usually dependent on or relates to exposure to ultra-violet rays. A method for evaluating this potential for causing dermatitis is to add ultra-violet light to a

standard predictive test for allergic contact dermatitis. This is usually performed on 25 subjects.

III. *Assay for potential irritancy.* Irritancy, as far as it relates to the problem at hand, may be defined as the ability of a particular substance to produce a dermatitis by contact unrelated to the presence of an immunologic mechanism. An appropriate assay to determine the low irritancy potential for each hypoallergenic cosmetic must be performed. There are many proven and acceptable tests which can be employed to determine irritancy.

Such an assay must take into account the function and recommended usages of the product.

IV. *Phototoxicity test.* Phototoxicity may be defined as a non-antibody mediated dermatitis due to the exposure of an individual to a particular substance and, in addition, to ultra-violet light.

The method for demonstrating the presence or absence of potential phototoxicity is to apply the test substance to the skin and then to irradiate the skin with nonerythrogenic rays. This test may conveniently and reliably be performed on a variety of animals, although the test procedures can also be performed on man. If the test is performed on man, it is necessary to remove part of the stratum corneum in order to obtain a positive result. In either event, whether animals or humans are used, only a small number (5 to 8) are required and the assay is so straightforward and reliable that it should remove the possibility of phototoxicity occurring with a given hypoallergenic cosmetic.

V. *Use test.* Finally, it is incumbent upon the manufacturer to perform an appropriate use test as well as conducting a continuing literature review.

The use of the above procedures, if properly completed by the qualified experts, will develop reliable data by which it can be determined whether a particular cosmetic might be less likely to cause the most prevalent dermatitis conditions present among the consuming public.

2. The Commissioner also wishes to invite the views of interested persons on the following recommendation made by the Bureau of Consumer Protection of the Federal Trade Commission (FTC) in a letter commenting on a draft of the proposed regulation. The letter is on public display in the office of the Hearing Clerk.

Although the reformulation of a product making a hypoallergenic claim will, under subparagraph (3)(ii), require evidence that the new formulation also is hypoallergenic, the rule is silent on the effects of reformulation of the reference product(s). Reformulation of the reference product to reduce its allergy-causing potential could, of course, remove the basis for a hypoallergenic product's claim. I suggest that subparagraph 3(ii) of the rule be expanded to require that a manufacturer making the hypoallergenic retest its product against a reformulated reference within a reasonably brief time (e.g., 6 months) after it learns of the reformulation. Whether a manufacturer may reasonably be required to monitor reference product reformulations, whether the self-interest of reference product manufacturers will impel them to give notice of reformulation, and whether such notice should be given to FDA involve matters of technical and economic judgment which FDA is in the best position to exercise. I have therefore suggested no specific language for the amended subparagraph 3(ii).

Subparagraph 6 of the rule, as presently drafted, treats such absolute terms as "safe for sensitive skin" or "medically proven" as equivalent to "hypoallergenic." Such terms, however, may imply absolute safety—which implication cannot be supported merely by a showing that the product is less allergenic. Since these terms may imply a "complete absence of allergenic potential" (Preamble) they should be considered equivalent to claims of "nonallergenic," and render the product misbranded.

Terms such as "dermatologically tested" or "allergy tested" may be literally true for a product that conforms with the requirement of the rule. Nevertheless, such terms may, depending upon how they are made, also imply a greater degree of safety than a manufacturer has documented. While I agree that, at a minimum, such terms must be supported by evidence conforming with the rule, I do not believe that they should be insulated, as the present draft would now insulate them, from the misbranding provisions of the Federal Food, Drug, and Cosmetic Act. The preamble should so state and subparagraph 6 should be amended to read:

"Terms and phrases such as 'dermatologically tested,' 'allergy tested,' and similar or related claims subject a cosmetic to all the requirements of this paragraph. Such terms and phrases may nevertheless render a product misbranded if, in the manner in which they are made, they have the capacity or tendency to imply that the product is 'nonallergenic.' Terms and phrases such as 'medically proven' or 'safe for sensitive skin' cannot be justified by a showing that the product is "hypoallergenic" and may render the product misbranded."

As you know, FTC case law holds that an unqualified claim of superiority, such as "less allergenic," is likely to be understood by consumers as a comparison to "most" other products or to competitive products "generally." "Liggett & Myers Tobacco Co.," 55 F.T.C. 354 (1958). Yet the rule, as presently drafted, would permit an unqualified "less allergenic" claim to be made, based on a showing that the product is less allergenic than 10 percent or less of competing products. Such claims are thus potentially deceptive or misleading under section 5 and section 12 of the FTC Act. To avoid such potential deception, I believe that products making a hypoallergenic claim should be required to define, in labeling, their hypoallergenic claim by specifically stating that the product is "less likely to cause allergic reactions than some competing products."

I recognize that manufacturers of many products may have been using similar types of misleading "dangling comparatives" for years without active challenge. But merely because an abuse is widespread does not mean that it should be ignored when it arises in a specific area that has been singled out for FDA regulation. In such circumstances failure to require a label disclosure that adequately qualifies the claim may be construed as implicit approval of the practice.

Moreover, while hypoallergenic cosmetics may be promoted to the public generally, hypoallergenic products are, as the preamble recognizes, "primarily intended" for the relatively small group of consumers who have suffered allergic reactions in the past. It is my understanding that allergic reactions are reactions to specific ingredients, not to products as a whole. For consumers who have had such reactions, the hypoallergenic designation is not a substitute for the advice of a competent physician. I recognize that persons may be allergic to a variety of products, not limited to cosmetics, and that a case may be made for requiring label warnings on all products that may be used by allergic consumers. Hypoallergenics raise the issue quite squarely, however, because they are promoted specifically to an allergic audience. I believe a label statement, suggesting that consumers with prior allergic reactions to cosmetics consult their physician, be included. The label statement would read:

"Less likely to cause allergic reactions than some competing products. If you have a history of allergic reactions to cosmetics, your physician can recommend cosmetics most suitable for you."

The reference set forth earlier in the preamble together with the following additional supportive data and background information have been assembled and are on display in the office of the Hearing Clerk:

1. List of complaints on hypoallergenic cosmetics received by the Food and Drug Administration during the period 1969 through 1973.

2. Summaries of complaints on hypoallergenic cosmetics received by the Food and Drug Administration during the year 1973.

3. Two letters on hypoallergenic cosmetics received from consumers by the Food and Drug Administration.

4. Two letters on hypoallergenic cosmetics received from industry by the Food and Drug Administration.

5. Final Report on A Study of Health Practices and Operations, contract no. FDA 66-193 (June 1972).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 602(a), 701(a), 52 Stat. 1041, 1054 as amended, and 1055; (21 U.S.C. 321(n), 362(a), 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs proposes to amend § 1.201 of Chapter I of Title 21 of the Code of Federal Regulations by adding thereto a new paragraph (c) to read as follows:

§ 1.201 Cosmetic; labeling; misbranding.

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(c) A cosmetic may be designated in its labeling by words that state or imply that the product or any ingredient thereof is "hypoallergenic" if it has been shown by scientific studies that the relative frequency of adverse reactions in human subjects from the test product is significantly less than the relative frequency of such reactions from each reference product(s).

(1) For the purpose of these studies, the term "adverse reactions" means any epidermal reaction, of undefined degree of severity, occurring on a subject during the course of a study involving one or multiple dermal applications of the test material.

(2) The studies shall be carried out on human subjects. Such subjects may be chosen from individuals who have a history of adverse reactions. If separate

groups of subjects are used for the test product and the reference product, the subjects shall be assigned at random to each group.

(3) The studies shall be conducted in accordance with recognized dermatological testing procedures adequate to determine adverse reactions. In order to support a claim of hypoallergenicity, the relative frequency of response observed for the test product shall be sufficiently less than that for the reference product so as to statistically reject the hypothesis of no difference in relative frequencies at the 5 percent level of significance.

(4) A claim of hypoallergenicity which has been justified by the requirements of this paragraph shall be valid for a period of five years from the date of the completion of the required testing if each of the following conditions is met:

(i) The reference product(s) is:

(*a*) Any one of the similar-use competitive products in the same cosmetic product category with the highest three rankings as determined by the most recent annual unit sales volume; or

(*b*) Each of any number of similar-use competitive products in the same cosmetic product category representing a combined market share of at least 10 percent of the similar usage cosmetic market.

(ii) There is no change in the formula of the product for which the claim is made. Any change in the formula of a product for which such a claim is made requires that the reformulated product again meet all of the requirements of this paragraph.

(iii) All records of any tests, results, and evaluations conducted pursuant to the provisions of this paragraph, irrespective of the results, are submitted to the Food and Drug Administration prior to commercial distribution of a new product or, in the case of products currently in commercial distribution in accordance with subparagraph (6)(i) of this paragraph, as soon as completed. The submission shall be accompanied by a statement, signed by the person responsible for the submission, that to the best of his knowledge and belief it includes all of the tests, results, and evaluations comparing the product to other products with reference to frequency of adverse reactions (except for other data previously submitted). All such information shall promptly be placed on public display in the office of the Hearing Clerk.

(iv) No data submitted at any time to the Food and Drug Administration by the manufacturer or any other interested person demonstrates that such claim is not reasonably applicable.

(5) No cosmetic shall be shipped in interstate commerce with a claim of hypoallergenicity after a determination that such a claim is not supported. A recall of already-marketed products shall not be required solely because of a determination that a claim of hypoallergenicity is not supported.

(6) If any test conducted by the manufacturer of a product for which a claim of hypoallergenicity is made or by any other interested person raises questions about the validity of such claim, the Commissioner shall determine if additional testing is necessary to resolve the issue and shall so advise the manufacturer of the product in writing.

(i) If the Commissioner determines that additional testing is necessary, the manufacturer of the product shall be provided 30 days within which to submit a commitment to the Commissioner, in writing, to conduct such additional testing. If the manufacturer makes such a commitment, the test shall be conducted and the results shall be submitted to the Commissioner within an additional 150 days unless the Commissioner grants an extension for good cause shown.

(ii) The Commissioner shall resolve any issues with respect to the adequacy of testing to prove or disprove a claim of hypoallergenicity. A copy of such determination shall be provided to interested persons and shall be placed on public display in the office of the Hearing Clerk.

(7) Any cosmetic product which is designated in labeling as hypoallergenic or for which claims are made that one or more ingredients are hypoallergenic or for which hypoallergenicity is implied through the use of other terms shall comply with the requirements of this paragraph as follows:

(i) If it is in commercial distribution on the date of publication of this paragraph, such claims shall be justified as required by this paragraph, no later than two years after the date of publication.

(ii) If it is not in commercial distribution on the date of publication of this regulation, such claims shall be justified as required by this section before such claims are made.

(iii) If such claims have not been justified in accordance with the requirements of this paragraph or if records of test studies have not been made available as required by this paragraph such claims may not be made.

(8) No data submitted to the Food and Drug Administration may be construed to represent approval or endorsement by the Food and Drug Administration. Any product bearing labeling that states or implies that such test data has been submitted to the Food and Drug Administration or that the Food and Drug Administration has approved or endorsed the tests or the product shall be deemed to be misbranded.

(9) Terms and phrases such as "allergy tested", "lower rate of reactions", "safer for sensitive skin", and similar or related claims containing such words as "allergy", "irritation", or "sensitivity" in their text convey the same meaning as "hypoallergenic" and are subject to all the requirements of this paragraph. Terms or phrases which imply complete absence of adverse reaction potential or complete safety are false or misleading and render a product misbranded.

Interested persons may, on or before April 26, 1973, 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: February 19, 1974.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

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