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HIGHLIGHTS OF THIS ISSUE

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

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(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.)

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Weekly List of Public Laws

This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statutes citation. Subsequent lists will appear every Wednesday in the FEDERAL REGISTER, and copies of the laws may be obtained from the U.S. Government Printing Office.

H.R. 5450..... Pub. Law 93–254
Marine Protection, Research, and Sanctuaries Act of 1972, amendments
(March 22, 1974; 88 Stat. 50)

H.R. 13025..... Pub. Law 93–256
Presumptive disability benefits, time extension
(March 28, 1974; 88 Stat. 52)

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(March 27, 1974; 88 Stat. 52)

Rules and Regulations

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

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

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of State

Section 213.3304 is amended to show that one position of Secretary and Personal Assistant to the U.S. Representative to the Council of the Organization of American States is excepted under Schedule C.

Effective on April 3, 1974, § 213.3304 (h) (2) is added as set out below:

§ 213.3304 Department of State.

* * * * *

(h) *Bureau of International Organization Affairs.* * * *

(2) One Secretary and Personal Assistant to the U.S. Representative to the Council of the Organization of American States.

* * * * *

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

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

[FR Doc.74–7692 Filed 4–2–74;8:45 am]

PART 213—EXCEPTED SERVICE

Veterans Administration

Section 213.3327 is amended to show that five Confidential Assistants are being transferred to the Office of the Deputy Administrator.

Effective on April 3, 1974, § 213.3327 (a) (1) and (7) are amended, (8) is revoked, and (10) is added as set out below.

§ 213.3327 Veterans Administration.

(a) *Office of the Administrator.*

(1) Four Confidential Assistants to the Special Assistant to the Administrator.

* * * * *

(7) Three Confidential Assistants to the Executive Assistant to the Administrator.

(8) [Revoked]

* * * * *

(10) Five Confidential Assistants to the Deputy Administrator.

* * * * *

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

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

[FR Doc.74–7693 Filed 4–2–74;8:45 am]

Title 19—Customs Duties

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

[T.D. 74–114]

GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

On October 3, 1973, there was published in the FEDERAL REGISTER (38 FR 27399), notice of a proposed rulemaking which would revise the Customs Regulations relating to general order, unclaimed, and abandoned merchandise. This proposed revision, which follows the format established for the general revision of the Customs Regulations, creates a new Part 127 of the Customs Regulations (19 CFR Part 127) setting forth the procedures for handling general order, unclaimed, and abandoned merchandise, including the sale of unclaimed and abandoned merchandise.

After consideration of all comments received, no substantive changes were made in Part 127, as proposed.

Included as part of the revision is a parallel reference table showing the relationship of the sections in new Part 127 to superseded sections in Parts 20, 24, and 56 of the Customs Regulations (19 CFR Parts 20, 24, and 56).

Accordingly, new Part 127, with the conforming changes in Parts 4, 12, 18, 19, 20, 24, 56, 141, 144, and 147 of the Customs Regulations, Chapter I, title 19 of the Code of Federal Regulations, is hereby adopted as set forth below.

Effective date. These amendments shall become effective May 3, 1974.

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

Approved: March 22, 1974.

JAMES B. CLAWSON,
Acting Assistant Secretary of the Treasury.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Section 4.37 is amended by adding paragraph (f) as follows:

§ 4.37 Lay order; general order.

* * * * *

(f) Whenever, pursuant to section 457 or 490, Tariff Act of 1930, as amended (19 U.S.C. 1457, 1490), the district director shall take possession of a cargo which is unclaimed and not unladen, he shall require, as a condition for granting a permit to discharge, that the vessel be removed at the expense of the owner to the wharf, pier, or other place most convenient to the general order stores.

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

PART 12—SPECIAL CLASSES OF MERCHANDISE

In § 12.13, paragraph (a) is amended by substituting "subparts C and D of Part 127", for "§§ 20.5 and 20.6".

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

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

In section 18.12, paragraph (a) is amended by substituting "127.2" for "20.2".

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

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

In § 19.6, paragraph (a) is amended by substituting "127.14(c)" for "20.3(c)".

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

PART 20—DISPOSITION OF UNCLAIMED AND ABANDONED MERCHANDISE

Chapter I of title 19, Code of Federal Regulations, is amended by deleting Part 20.

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

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Part 24, Chapter I, title 19, Code of Federal Regulations, is amended by deleting § 24.25.

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

PART 56—EXTENSIONS OF TIME PURSUANT TO PROCLAMATION OF THE PRESIDENT UNDER SECTION 318, TARIFF ACT OF 1930

Chapter I of title 19, Code of Federal Regulations, is amended by deleting Part 56.

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

PART 127—GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

Chapter I of title 19 of the Code of Federal Regulations, is amended by adding a new Part 127 to read as follows:

PART 127—GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

AUTHORITY: R.S. 251, as amended, section 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 66, 1624. Other statutory provisions interpreted or applied and additional authority are cited in the text or in parentheses following the sections affected.

§ 127.0 Scope.

This part sets forth regulations pertaining to general order merchandise, unclaimed merchandise, and abandoned merchandise, the storage and sale thereof, and the distribution of the proceeds from the sale thereof. Regulations regarding the abandonment of merchandise by the importer to the Government in accordance with section 506(1), Tariff Act of 1930, as amended (19 U.S.C. 1506(1)), appear in Part 158 of this chapter.

Subpart A—General Order Merchandise

§ 127.1 Merchandise considered general order merchandise.

Merchandise shall be considered general order merchandise when it is taken into the custody of the district director and deposited in the public stores or a general order warehouse at the risk and expense of the consignee for any of the following reasons:

(a) Whenever entry of any imported merchandise is not made within the time provided by law or regulations prescribed by the Secretary of the Treasury.

(b) Whenever entry is incomplete because of failure to pay estimated duties.

(c) Whenever, in the opinion of the district director, entry cannot be made for want of proper documents or other causes.

(d) Whenever the district director believes that any merchandise is not correctly or legally invoiced.

(e) Whenever, at the request of the consignee or the owner or master of the vessel or person in charge of the vehicle in which merchandise is imported, any merchandise is taken possession of by the district director after the expiration of 1 day after entry of the vessel or report of the vehicle.

(Sec. 490, 46 Stat. 726, as amended; 19 U.S.C. 1490)

§ 127.2 Withdrawal from general order for entry or exportation.

(a) *Exportation within 1 year from date of importation.* Merchandise in general order may be exported without examination or appraisement if the merchandise is delivered to the exporting carrier within 1 year from the date of importation. This merchandise may be entered within 1 year from date of importation for immediate transportation to any port of entry designated by the consignee.

(b) *After expiration of 1 year from date of importation.* Entry for immediate transportation shall be permitted after the expiration of the 1-year period only for the purpose of filing an entry for consumption at the port of destination.

(c) *Withdrawal of less than single general order lot.* The withdrawal from general order of less than a single general order lot shall not be permitted except as provided for in § 141.52 of this chapter.

(Sec. 490, 46 Stat. 726, as amended; (19 U.S.C. 1490))

§ 127.3 Extension of general order period.

(a) *Extensions of 1 year each.* Pursuant to the authority in Proclamation No. 2948 issued by the President on October 12, 1951 (16 FR 10589), the initial 1-year period for general order merchandise in section 491, Tariff Act of 1930, as amended (19 U.S.C. 1491), shall be extended for successive periods of 1 year each upon compliance with paragraph (b) of this section. There is no limit to the number of extensions that may be granted. If the application is submitted after the expiration of the 1-year period or the latest extension thereof, the new extension shall be retroactive to the expiration of the previous period. An extension shall not be granted if the merchandise has been disposed of by the Government.

(b) *Documents required for extension.* The following documents shall be presented to the district director at the port where the merchandise is stored each time an extension is requested:

(1) The written application for extension, in duplicate, executed by the consignee.

(2) Evidence that the applicant is the consignee, such as the bill of lading or a signed or certified duplicate thereof or a carrier's certificate covering the merchandise. It will not be necessary that the evidence be furnished with applications for any subsequent extensions when made by the same applicant.

(3) A statement on the application by the proprietor of the warehouse in which the merchandise is stored consenting to the extension, or certifying that all charges or amounts due or owing to the proprietor for storage or handling of the merchandise concerned up to the date of the beginning of the requested period of extension have been paid.

(c) *Form of application.* For merchandise in general order, applications for extension or further extension of the 1-year period prescribed in section 491, Tariff Act of 1930, as amended (19 U.S.C. 1491), shall be made in duplicate and in substantially the following form:

(Date)

The District Director of Customs

Sir: In accordance with the provisions of Treasury Decision No. 52896, of December 28, 1951, application is hereby made for an extension (or further extension) of the 1-year period prescribed in section 491, Tariff Act of 1930, as amended, for 1 year in the case of the merchandise described below:

Quantity and description of the merchandise:

Name of port here imported: ---
--- Date of importation: ---
Present location of merchandise: ---
(address
---
of warehouse where the merchandise is
--- Additional information: ---
stored) (here state
---
whether any previous extension has been al-
---
lowed or application made for such exten-
---
sion and, if so, the details thereof)

(name of consignee)
By---
(name and title)

The undersigned hereby consents to the granting of the 1-year extension requested herein, or

The undersigned hereby certifies that all charges or amounts due or owing to the undersigned for storage or handling of the merchandise described above up to the date of the beginning of the 1-year period of extension requested herein have been paid.

--- ---
(date) (warehouse proprietor)
By---
(name and title)

(d) *Extension of carrier's bond.* In each case in which the merchandise remains charged against a carrier's bond, Customs Form 3587, and an extension or further extension of the 1-year period prescribed in section 491, Tariff Act of 1930, as amended (19 U.S.C. 1491), is desired, there shall be furnished to the district director at the port where the charge against the bond was made the agreement of the principal and sureties on such bond in the following form:

EXTENSION OF CARRIER'S BOND

Whereas, in Treasury Decision No. 52896, of December 28, 1951, issued pursuant to authority contained in the President's Proclamation No. 2948, dated October 12, 1951, the 1-year period prescribed in section 491, Tariff Act of 1930, as amended, was extended for 1 year and further extended for additional periods of 1 year each from and after the expiration of the immediately preceding extension, provided, among other things, that in each case in which the merchandise remains charged against a carrier's bond the principal on such bond shall agree to the extension and shall furnish the agreement of the sureties on the bond to remain bound under the terms and conditions of the bond to the same extent as if no extension had been granted, and

Whereas, the carrier's bond described below was furnished in connection with the entry for transportation in bond indicated, and it is now desired to extend the liability under such bond for a period of 1 year from the date of maturity of the bond (*):

Name of carrier:_____
Date of bond:_____
Date of approval:_____
Class and number of transportation in bond entry:_____
Dated: _____
Port where charge against bond was made: _____
Description of merchandise:_____
Date of importation:_____

Now, Therefore, This is to certify that _____, principal, and _____ and _____, sureties on the carrier's bond referred to above, hereby stipulate and agree that their liability under said bond (*) shall continue unchanged and in full force and effect to the same extent as if no extension had been granted for a period of 1 year from the date of maturity of the bond (*).

WITNESS our hands and seals this _____ day of _____, 19____.

Signed, sealed and delivered in the presence of—

_____
(Name) (Address)
_____
(Name) (Address)
_____
(Name) (Address)
_____
(Name) (Address)
_____ [SEAL]
(principal)
_____
(Name) (Address)
_____
(Name) (Address)
_____ [SEAL]
(surety)

(*) Here insert the words "as extended" if a previous extensions has been allowed.

(e) *Payment of charges.* If the merchandise concerned is stored in the public store, all charges or amounts due or owing to the Government for the storage or handling of the merchandise up to the date of the beginning of the 1-year period of extension requested shall be paid as a condition precedent to the granting of the extension.

(f) *Approval of application.* If the application is approved by the district director, he shall endorse the fact and date of his approval on both copies of the application, retain the original as his record of the transaction, and return the duplicate to the consignee for his records. If the application is disapproved by the district director, he shall retain both copies on file in his office and advise the applicant in writing as to the reasons for his disapproval.

(Sec. 318, 46 Stat. 696; 19 U.S.C. 1318)

Subpart B—Unclaimed and Abandoned Merchandise

§ 127.11 Unclaimed merchandise.

Any entered or unentered merchandise (except merchandise under section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), but including merchandise entered for transportation in bond or for exportation) which shall remain in Customs custody for 1 year from the date of importation thereof or a lesser period for special merchandise as provided by §§ 127.28 (c), (d), and (h), or for any extensions of the general order period as may be granted pursuant to § 127.3, and without all estimated duties and storage or other charges thereon having been paid, shall be considered unclaimed and abandoned.

(Sec. 491, 46 Stat. 726, as amended; (19 U.S.C. 1491))

§ 127.12 Abandoned merchandise.

(a) *Involuntarily abandoned merchandise.* The following shall be considered to be involuntarily abandoned merchandise:

(1) Articles entered for a trade fair under the provisions of section 3 of the Trade Fair Act of 1959 (19 U.S.C. 1752), which are still in Customs custody at the expiration of 3 months after the closing date of the fair for which they were entered. (See § 147.47 of this chapter.)

(2) Any imported merchandise upon which any duties or charges are unpaid, remaining in bonded warehouse beyond the 3-year warehouse period or extension thereof.

(b) *Voluntarily abandoned merchandise.* The following merchandise shall be considered to be voluntarily abandoned merchandise and the property of the United States Government:

(1) Merchandise which is taken possession of by the district director at the request of the consignee, or owner or master of the vessel or person in charge of the vehicle in which the merchandise was imported.

(2) Merchandise abandoned by the importer to the United States within 30 days after entry in the case of merchandise not sent to the public stores for examination, or within 30 days after the release of the examination packages or merchandise in the case of merchandise sent to the public stores for examination.

(3) Articles entered for a trade fair under the provisions of section 3 of the Trade Fair Act of 1959 (19 U.S.C. 1752), which have been abandoned to the United States within 3 months of the closing of the fair.

(4) Merchandise in a bonded warehouse abandoned by the consignee within 3 years from the date of original importation. (See subpart D of Part 158 of this chapter.)

(Secs. 490, 506, 559, 563, 46 Stat. 726, as amended, 732, as amended, 744, as amended, 746, as amended, sec. 4, 73 Stat. 18; (19 U.S.C. 1490, 1506, 1559, 1563, 1753))

§ 127.13 Storage of unclaimed and abandoned merchandise.

(a) *Place of storage.* Unclaimed and abandoned merchandise shall be sent under a permit to a class 1 warehouse (public store) or to a suitable warehouse of class 3, 4, or 5 specially designated for the purpose by the district director. If no warehouse of these classes is available, the district director may, with the approval of the Commissioner of Customs, rent suitable premises in a class 2 warehouse. (For permit to discharge unclaimed cargo which is not unladen see § 4.37(f) of this chapter.)

(b) *Payment of storage and expenses.* Storage at the ordinary rates and all other expenses shall be paid by the owner or consignee of the merchandise upon entry thereof. If the goods are sold, such charges shall be paid from the proceeds of the sale to the extent that proceeds are available.

(Sec. 490, 46 Stat. 726, as amended (19 U.S.C. 1490))

§ 127.14 Disposition of merchandise in Customs custody beyond time fixed by law.

(a) *Merchandise subject to sale.* If storage or other charges due the United States have not been paid on merchandise remaining in Customs custody after the expiration of the bond period in the case of merchandise entered for warehouse, or after the expiration of the general order period in any other case, even though any duties due have been paid, such merchandise shall be sold as provided for in subpart C of this part unless entered or withdrawn for consumption in accordance with paragraph (b) of this section.

(b) *Entry of merchandise subject to sale.* Merchandise subject to sale (except merchandise abandoned under section 506(1) or 563(b), Tariff Act of 1930, as amended (19 U.S.C. 1506(1), 1563(b))), may be entered or withdrawn for consumption at any time prior to the sale upon payment of the duties, any internal revenue tax, and all charges and expenses that may have accrued thereon. Such merchandise may not be exported without payment of duty nor entered for warehouse.

(c) *Release of merchandise to warehouse proprietor.* The following merchandise for which a permit to release has been issued shall be held to be no longer in the custody of Customs officers and shall be released to the warehouse proprietor:

(1) Merchandise upon which all duties and charges have been paid which remains in bonded warehouse beyond the 3-year warehouse period or extension thereof.

(2) Free and duty-paid merchandise upon which all charges have been paid, not entered for warehouse which remains in bonded warehouse for more than the general order period.

(Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended; (19 U.S.C. 1491, 1559))

Subpart C—Sale of Unclaimed and Abandoned Merchandise

§ 127.21 Time of sale.

All unclaimed and abandoned merchandise shall be sold at the first regular sale held after the merchandise becomes subject to sale, unless a deferment of its sale is authorized by the Commissioner of Customs. Regular sales shall be made once every year or more often at the discretion of the district director.

(Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended, sec. 4, 73 Stat. 18; (19 U.S.C. 1491, 1559, 1753))

§ 127.22 Place of sale.

All merchandise at a port other than a headquarters port which becomes subject to sale, including explosives, perishable articles and articles liable to depreciation, shall be promptly reported to the headquarters port for disposition. The district director, in his discretion, may sell such merchandise as well as merchandise at the headquarters port which is subject to sale, at the headquarters port or any other port within the district.

(Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended, sec. 4, 73 Stat. 18; (19 U.S.C. 1491, 1559, 1753))

§ 127.23 Appraisement of merchandise.

Before unclaimed and abandoned merchandise is offered for sale, it shall be appraised in accordance with sections 402 and 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402). Such merchandise shall also be appraised at its actual domestic value in its condition at the time and place of examination, whether or not it has depreciated or appreciated in value since the date of exportation. The quantity of merchandise in each lot shall be reported.

(Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended; (19 U.S.C. 1491, 1559))

§ 127.24 Notice of sale.

Notice of sale shall be sent to Customs Form 5251, 30 days prior to the date of sale, or 30 days prior to the transfer of merchandise to the place of sale, to the following:

(a) Importer, if known; or

(b) Consignee, if name and address can be ascertained;

or

(c) Shipper, his representative or agent, if merchandise is consigned to order or consignee cannot be ascertained;

or

(d) Warehouse transferee; or

(e) Lienholder.

(Secs, 491, 559, 46 Stat. 726, as amended 744, as amended; 19 U.S.C. 1491, 1559)

§ 127.25 Advertisement of sale.

(a) *Regular advertising.* Except as prescribed in sections 127.28(c), (d), and (h), and in paragraph (b) of this section, a brief notice of the time and place of sale shall be given for three successive weeks, immediately preceding the sale, in one newspaper of extensive circulation published at the port where the sale is to be held. The newspaper is to be selected by the district director and publication of the notice shall be authorized on the standard form provided for that purpose. The notice shall designate the place where catalogs may be obtained and a reasonable opportunity to inspect the merchandise shall be afforded prospective purchasers.

(b) *Where proceeds are insufficient to pay expenses and duties.* If the district director is satisfied that the proceeds of the sale will not be sufficient to pay the expenses and duties, a written or printed notice of the sale in lieu of the advertisement shall be conspicuously posted in the customhouse, and, if deemed necessary, at some other proper place for the time specified in paragraph (a) of this section.

(Secs, 491, 559, 46 Stat. 726, as amended 744, as amended; 19 U.S.C. 1491, 1559)

§ 127.26 Catalogs.

Catalogs, if used shall specify the description of packages, the description and quantities of their contents, the appraised value thereof, and also the domestic value at the time and place of the examination of the merchandise. They shall be distributed at the sale and announcement made that the Government does not guarantee quality or value and that no allowance will be made for any deficiency found after sale.

(Secs, 491, 559, 46 Stat. 726, as amended 744, as amended; 19 U.S.C. 1491, 1559)

§ 127.27 Conduct of sale.

Sales may be conducted by the district director, any employee designated by him or by a public auctioneer.

(Secs, 491, 559, 46 Stat. 726, as amended 744, as amended; 19 U.S.C. 1491, 1559)

§ 127.28 Special merchandise.

(a) *Drugs, seeds, plants, nursery stock, and other articles required to be inspected by Department of Agriculture.* Before drugs, seeds, plants, nursery stock, and other articles required to be inspected by the Department of Agriculture are advertised, they shall be inspected by a representative of the Department of Agriculture to ascertain whether they comply with the requirements of the law and regulations of that Department. If found not to comply with such requirements, they shall be immediately destroyed.

(b) *Pesticides and devices.* Pesticides and devices intended for trapping, destroying, repelling or mitigating any pest or any other form of plant or animal life (other than man or other than bacteria, virus, or other microorganism on or in living man or other living animals) shall be inspected by a representative of the Environmental Protection Agency to ascertain whether they comply with the requirements of the law and regulations of that agency. If found not to comply with such requirements, they shall be immediately destroyed.

(c) *Explosives, dangerous articles, fruit, and perishables.* Unclaimed explosives and other dangerous articles, and fruit and other perishable articles shall be sold after 3-days' public notice. When it is probable that entry will be made at an early date for unclaimed perishable merchandise, the district director may hold the merchandise for a reasonable time in a bonded cold-storage warehouse if one is available.

(d) *Articles liable to depreciation.* Other unclaimed merchandise shall be sold at public auction upon public notice of not less than 6 or more than 10 days, as the district director may determine, if in his opinion such merchandise will depreciate and sell for an amount insufficient to pay the duties, storage, and other charges if allowed to remain in general order for 1 year.

(e) *Tobacco and tobacco products.* Tobacco articles and tobacco materials as defined in 26 U.S.C. 5702(j) and (k), may be sold for domestic consumption only if they will bring an amount sufficient to pay the expenses of sale as well as the internal revenue tax. If these articles cannot be sold for domestic consumption in accordance with the foregoing conditions, they shall be destroyed unless they can be advantageously sold for export from continuous Customs custody or unless the Commissioner of Customs has authorized other disposition to be made under the law. These articles may be sold for domestic consumption even though the proceeds of sale will not cover the duties due.

(f) *Distilled spirits, wines, and malt beverages.* All unclaimed and abandoned distilled spirits, wines, and malt beverages may be sold for domestic consumption if they will bring an amount sufficient to pay the internal revenue tax. If they cannot be sold for domestic consumption in accordance with the foregoing condition, they shall be destroyed unless they can be advantageously sold for export from continuous Customs custody or unless the Commissioner of Customs has authorized other disposition to be made under the law. The sale must be conducted in accordance with the alcoholic beverage laws of the state in which the sale is held.

(g) *Other merchandise subject to internal revenue taxes.* All other unclaimed and abandoned merchandise subject to internal revenue taxes may be sold for domestic consumption if it will bring an amount sufficient to pay the internal revenue tax. If, in the opinion of the district director, it is insufficient in value to justify its sale, the merchandise shall be destroyed, unless it can be advantageously sold for export from continuous Customs custody or unless the Commissioner of Customs has authorized other disposition to be made under the law. These articles may be sold for domestic consumption even though the proceeds of sale will not cover the duties due.

(h) *Unclaimed merchandise remaining on dock.* Unclaimed merchandise remaining on the dock which, in the opinion of the district director, will not sell for enough to pay the cost of cartage and storage shall be sold at public auc-

tion upon public notice of not less than 6 or more than 10 days.

(Secs. 491, 492, 46 Stat. 726, as amended, 727, as amended, sec. 201, 72 Stat. 1412, 68A Stat. 716, as amended, 86 Stat. 995; (19 U.S.C. 1491, 1492, 26 U.S.C. 5688, 5753))

§ 127.29 Unsold merchandise.

Merchandise offered for sale but not sold shall be included in the next regular sale of unclaimed and abandoned merchandise. If the district director is satisfied that such merchandise is unsalable or of no commercial value, it shall be destroyed.

(Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended; (19 U.S.C. 1491, 1559))

Subpart D—Proceeds of Sale

§ 127.31 Disposition of proceeds.

From the proceeds of sale of merchandise remaining in public stores or in bonded warehouse beyond the time fixed by law, the following charges shall be paid in the order named:

(a) Internal revenue taxes.

(b) Expenses of advertising and sale.

(c) Expenses of cartage, storage and labor. When the proceeds are insufficient to pay such charges fully, they shall be paid pro rata. (For merchandise entered for warehousing, see § 127.32 of this subpart.)

(d) Duties.

(e) Any other charges due the United States in connection with the merchandise.

(f) Any sum due to satisfy a lien for freight, charges, or contributions in general average, of which due notice shall have been given in the manner prescribed by law.

(Secs. 491, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended, sec. 4, 73 Stat. 18; (19 U.S.C. 1491, 1493, 1559, 1753))

§ 127.32 Expenses of cartage, storage, and labor.

The expenses of cartage, storage, and labor for merchandise entered for warehousing shall be paid in the following order:

(a) When such merchandise was warehoused in public stores, expenses of storage and labor shall be paid after expenses of sale (pro-rated when proceeds are insufficient to pay them fully) and any cartage charges shall be paid last.

(b) When such merchandise was warehoused in a bonded warehouse, expenses of storage, cartage, and labor shall be paid last (pro-rated when proceeds are insufficient to pay them fully).

(Secs. 491, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended; (19 U.S.C. 1491, 1493, 1559))

§ 127.33 Chargeable duties.

The duties chargeable on any merchandise within the purview of this subpart shall be assessed on the appraised dutiable value at the rate of duty chargeable at the time the merchandise became subject to sale. Household and personal effects of the character provided for in schedule 8, part 2A, Tariff Schedules of the United States (19 U.S.C. 1202), which belong to persons who have not arrived in this country before the effects become subject to sale, are dutiable at the rates in effect when the effects become subject to sale, even though such persons arrive and make entry for the effects before they are sold.

(Secs. 491, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended; (19 U.S.C. 1491, 1493, 1559))

§ 127.34 Auctioneer's commissions.

The duties of the auctioneer shall be confined to selling the merchandise and his charge for such service shall in no case exceed the commissions usual at the port. Such commissions shall be based on the amount of the successful bid.

(Secs. 491, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended; (19 U.S.C. 1491, 1493, 1559))

§ 127.35 Presentation of accounts.

Accounts for the auctioneer's charges and all other expenses of sale which may be properly chargeable on the merchandise shall be presented to the district director for payment within 10 days from the date of sale. Such expenses shall be apportioned pro rata on the amounts received for different lots sold.

(Secs. 491, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended; (19 U.S.C. 1491, 1493, 1559))

§ 127.36 Claim for surplus proceeds of sale.

(a) *Filing of claim.* Claims for the surplus proceeds of the sale of unclaimed or abandoned merchandise shall be filed with the district director at whose direction the merchandise was sold. The following shall be used in filing a claim:

(1) *Unclaimed merchandise.* Claims for surplus proceeds of the sale of unclaimed merchandise which has become abandoned and sold under section 491 of the Tariff Act of 1930, as amended (19 U.S.C. 1491), shall be supported by the original bill of lading. If only part of a shipment is involved, either a photostatic or certified copy of the original bill of lading may be submitted in lieu of the original bill of lading.

(2) *Involuntarily abandoned merchandise*—(i) *Warehouse goods deemed abandoned.* Claims for surplus proceeds of sale of warehouse goods deemed involuntarily abandoned sold under section 559 of the Tariff Act of 1930, as amended (19 U.S.C. 1559), shall be established by reference to the warehouse entry, or, if the right to withdraw the merchandise from warehouse has been transferred, by reference to the documents by which the transfer was made.

(ii) *Trade fair articles deemed abandoned.* Claims for surplus proceeds of sale of trade fair articles deemed involuntarily (mandatorily) abandoned under section 4 of the Trade Fair Act of 1959 (19 U.S.C. 1753(c)), shall be supported by the original bill of lading. If only part of a shipment is involved, either a photostatic copy or certified copy of the original bill of lading may be submitted in lieu of the original bill of lading. (See § 147.47 of this chapter.)

(b) *Payment of claim.* If a claim of the owner or consignee of unclaimed or abandoned merchandise for the surplus proceeds of sale is properly established as provided in this section, such proceeds of sale shall be paid to him pursuant to section 493 of the Tariff Act of 1930, as amended (19 U.S.C. 1493).

(c) *Doubtful claims.* Any doubtful claims for the proceeds of sale along with all pertinent documents and information available to the district director shall be forwarded to the Commissioner of Customs for instructions or for referral to the General Accounting Office for direct settlement.

(Secs. 491, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended, sec. 4, 73 Stat. 18; (19 U.S.C. 1491, 1493, 1559, 1753))

§ 127.37 Insufficient proceeds.

(a) *Warehouse merchandise deemed involuntarily abandoned.* If the proceeds of sale of warehouse merchandise deemed involuntarily abandoned are insufficient to pay the duties after payment of all charges having priority, the deficiency shall be collected under the warehouse entry bond.

(b) *Unclaimed merchandise and trade fair articles involuntarily abandoned.* If the proceeds of sale of unclaimed merchandise or trade fair articles involuntarily abandoned are insufficient to pay the charges and duties, the consignee shall be liable for the deficiency unless the merchandise was shipped to him without his consent. If no entry for the merchandise has been filed, and no other attempt to control the merchandise has been made, the merchandise shall be regarded as shipped to the consignee without his consent and no effort shall be made to collect any deficiency of duties or charges from such consignee.

(Secs. 491, 492, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended, sec. 4, 73 Stat. 18; (19 U.S.C. 1491, 1492, 1493, 1559, 1753))

PART 141—ENTRY OF MERCHANDISE

Section 141.112(f) is amended by substituting "subpart D of Part 127 and §§ 158.10 and 162.51" for "§§ 20.6, 158.10, and 162.51".

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

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

Section 144.38(e) is amended by substituting "127.14(c)" for "20.3(c)".

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

PART 147—TRADE FAIRS

Section 147.47 is amended by inserting "(See subpart D of Part 127 of this chapter.)" at the end of the second sentence.

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

PARALLEL REFERENCE TABLE

(This table shows the relation of sections in revised Part 127 to superseded 19 CFR Parts 20, 24, and 56)

Revised Section	*Superseded Section*
127.0	New.
127.1(a)-(e)	New.
127.2(a)-(b)	20.2(a).
127.2(c)	20.2(b).
127.3(a)	56.1(a).
127.3(b)	56.1(a), 56.2(c).
127.3(c)	56.2(a).
127.3(d)	56.3(a).
127.3(e)	56.2(b).
127.3(f)	56.2(d).
127.11	New.
127.12(a)-(b)	New.
127.13(a)	20.1(a).
127.13(b)	20.1(c).
127.14(a)	20.3(a).
127.14(b)	20.3(b).
127.14(c)	20.3(c).
127.21	20.5(a).
127.22	20.5(d).
127.23	20.5(b).
127.24	20.5(j).
127.25(a)	20.5(e).
127.25(b)	20.5(h).
127.26	20.5(i).
127.27	20.5(a).
127.28(a)	20.5(c).
127.28(b)	New.
127.28(c)	20.5(f).
127.28(d)	20.5(g).
127.28(e)	20.4.
127.28(f)	New.
127.28(g)	20.4.
127.28(h)	20.5(g).
127.29	20.5(k).
127.31	20.6(a).
127.32	20.6(b).
127.33	20.6(c).
127.34	20.6(d).
127.35	20.6(e).
127.36	20.6(f) & (g); 24.25.
127.37(a)	20.6(h).
127.37(b)	20.6(i).

[FR Doc.74-7634 Filed 4-2-74;8:45 am]

[T.D. 74-113]

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

Free Entry List; Amendment

By Executive Order No. 11760 signed January 17, 1974 (39 FR 2343), the President designated the European Space Research Organization (ESRO) as a public international organization entitled to enjoy all the privileges, exemptions, and immunities provided for by the International Organizations Immunities Act of December 29, 1945 (59 Stat. 669). Executive Order No. 11760 supersedes previous Executive orders which granted ESRO a restricted status under the Act.

The names of public international organizations currently designated as entitled to free entry privileges under the International Organizations Immunities Act are set forth in § 148.87(b) of the Customs Regulations, together with the number and date of the Executive order by which they were designated.

Accordingly, § 148.87(b) is amended by the following addition (in proper alphabetical order) and deletion:

Addition:

Organization	Executive Order	Date
European Space Research Organization (ESRO)	11760	Jan. 17, 1974
Deletion:		
European Space Research Organization	11318	Dec. 5, 1966

(R.S. 251, as amended, secs. 498, 624, 46 Stat. 728, as amended, 759, sec. 1, 59 Stat. 669 (19 U.S.C. 66, 1498, 1624, 22 U.S.C. 288))

Inasmuch as these amendments merely correct the listing of organizations entitled by law to claim free entry privileges as public international organizations, notice and public procedure thereon are found to be unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

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

Approved: March 25, 1974.

JAMES B. CLAWSON,
Assistant Secretary of the Treasury.

[FR Doc.74-7630 Filed 4-2-74;8:45 am]

Title 20—Employees' Benefits

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

[Regs. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart H—Review and Hearing Under the Supplementary Medical Insurance Program

MISCELLANEOUS AMENDMENTS

On November 17, 1971, there was published in the FEDERAL REGISTER (36 FR 21895) a notice of proposed rulemaking with proposed amendments to Subpart H of Regulations No. 5. These amendments extend the time in certain instances during which an initial or review determination of a carrier or a decision of a hearing officer may be reopened and they make minor editorial and clarifying changes.

Also, on August 1, 1973, there was published in the FEDERAL REGISTER (38 FR 20466) notice of proposed rulemaking with proposed amendments to Subpart H of Regulations No. 5 in order to implement section 262 of Pub. L. 92-603. This section imposes a qualification amount of $100 or more in controversy in order for an individual to be granted an opportunity for fair hearing under the Supplementary Medical Insurance Program.

Interested persons were given the opportunity to submit within 30 days, data, views, or arguments with respect to the proposed amendments. Two comments were received. One questioned the conformity of these regulations with the existing regulations pertaining to Hospital Insurance benefits in determining the amount in controversy. There is complete conformity, however. The other suggested that the carrier be granted the authority to dismiss a hearing where the amount in controversy is less than $100. This was not adopted since it would be counter to the principle of providing totally independent action by a hearing officer after a review has been conducted and a hearing requested. In addition to these, a change has been made in the second sentence of § 405.803(b) to avoid an incorrect interpretation. The clause "whether the receipted bill or other evidence of payment is acceptable" has been changed to "whether the itemized bill or other evidence of services rendered is acceptable." Accordingly, with this change the proposed amendments as set forth below are adopted.

(Secs. 1002, 1831-1843; 49 Stat. 647, as amended; 79 Stat. 301-313; 79 Stat. 331; 42 U.S.C. 1302, 1395j-1395v, and 1395hh)

Effective date. These amendments shall be effective May 3, 1974.

(Catalog of Federal Domestic Assistance Program No. 13.801, Health Insurance for the Aged—Supplementary Medical Insurance)

Dated: March 8, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: March 28, 1974.

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

Part 405 of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 405.801 is revised to read as follows:

§ 405.801 Title XVIII, Part B—General.

(a) Section 1842(b)(3)(C) of the Act provides that a carrier shall establish and maintain procedures under which an individual enrolled in the supplementary medical insurance plan (see Subpart B of this Part) is provided with the opportunity for a hearing by the carrier when the amount in controversy is $100 or more as determined in accordance with § 405.820(b) and he is dissatisfied with the carrier's determination denying a request for payment, or with the amount of payment under the supplementary medical insurance plan or when he believes that the request for payment is not being acted upon with reasonable promptness. A physician or other person who furnishes items or services to a person enrolled under the supplementary medical insurance plan and who accepts an assignment from the enrollee has the same right as the enrollee to appeal the carrier's determination.

(b) As used in this section, the term "with reasonable promptness" shall mean a period of 60 consecutive days after the receipt by the carrier of a request for payment.

2. Paragraphs (b) through (f) inclusive of § 405.802 are revised to read as follows:

§ 405.802 Definitions.

As used in this Subpart H the term:

* * * * *

(b) "Party" means a person enrolled under Part B of title XVIII, his assignee,

or other entity having standing in the initial or appellate proceedings.

(c) "Assignor" means a person meeting the enrollment requirements under Part B of title XVIII for payment of the claim being assigned.

(d) "Assignee" means a physician or other person who furnished covered services to an assignor under the supplementary medical insurance plan and who has accepted a valid assignment executed by such assignor.

(e) "Assignment" means the transfer by the assignor (defined in paragraph (c) of this section) of his claim for payment to the assignee (defined in paragraph (d) of this section) in return for the latter's promise not to charge more for his services than the carrier finds to be the reasonable charges.

(f) "Representative" means an individual meeting the conditions described in §§ 405.870–405.871.

3. Section 405.803 is revised to read as follows:

§ 405.803 Initial determination.

(a) The carrier (or the hearing officer where a claim is "not acted upon with reasonable promptness" (see § 405.801)) shall, on the basis of all of the evidence, make an initial determination with respect to an applicant's claim for benefits under Part B of title XVIII.

(b) An initial determination for purposes of this subpart is a decision by a carrier, an intermediary authorized to adjudicate Part B claims, a hearing officer where a claim is not acted upon with reasonable promptness (see § 405.801), or other authorized entity which, in the absence of an appeal or review as provided for in this subpart, is or becomes the final decision to pay or to disallow a claim for benefits under Part B. It contemplates, for this purpose, resolution of all relevant subordinate issues (except as provided in paragraph (c) of this section), including, among others, decisions as to whether items and services furnished are covered; whether the deductible has been met; whether the itemized bill or other evidence of services rendered is acceptable; whether the charges for items or services furnished are reasonable; application of the coinsurance feature; the number of home health visits utilized; the medical necessity of services and supplies; and the amount of benefit payable and to whom it should be paid.

(c) For purposes of this subpart, a carrier (or hearing officer where a claim is not acted upon with reasonable promptness (see § 405.801)) may not make an initial determination with respect to any issue or factor for which the Social Security Administration has sole responsibility (for example, whether or not an individual is entitled to coverage under the supplementary medical insurance plan; whether an independent laboratory meets the conditions for coverage of services; etc.), or which relates to hospital insurance benefits under Part A of title XVIII of the Act.

4. Sections 405.805 through 405.823 inclusive are revised to read as follows:

§ 405.805 Parties to the initial determination.

The parties to the initial determination (see § 405.803) may be any party described in § 405.802(b).

§ 405.806 Effect of initial determination.

The initial determination shall be final and binding upon the party or parties to such determination unless it is reviewed in accordance with §§ 405.810–405.812, or is revised in accordance with § 405.841 by the carrier (or by the hearing officer presiding where a claim is not acted upon with reasonable promptness (see § 405.801)).

§ 405.807 Review of initial determination.

(a) *General.* A party to an initial determination by a carrier, who is dissatisfied with such initial determination, may request that the carrier review such determination. If a review is requested, such action shall not constitute a waiver of the right to hearing (see § 405.820) subsequent to such review.

(b) *Place of filing request.* A request for a carrier to review the initial determination is to be made in writing and filed at an office of the carrier or at an office of the Social Security Administration.

(c) *Time of filing request.* The carrier shall provide a period of 6 months after the date of the notice of its initial determination within which a party to the initial determination may request review. The carrier may, upon request by the party affected, extend the period for requesting the review.

(d) *Request for review.* Any clear expression in writing by a party to an initial determination which indicates, in effect, that he is dissatisfied with such determination by the carrier and wants to appeal the matter further constitutes a request for review.

§ 405.808 Parties to the review.

The parties to the review (as provided for in § 405.807(a)) shall be the persons who were parties to the carrier's initial determination as described in § 405.805, and any other party whose rights with respect to the particular claim being reviewed may be affected by such review.

§ 405.809 Opportunity to submit evidence.

The parties to the review (as provided for in § 405.807(a)) shall have a reasonable opportunity to submit written evidence and contentions as to fact or law relative to the claim at issue.

§ 405.810 Review determination.

Subject to the provisions of §§ 405.807–405.809, the carrier shall review the claim in dispute and, upon the basis of the evidence of record, shall make a separate determination affirming or revising in whole or in part the findings and determination in question.

§ 405.811 Notice of review determination.

Written notice of the determination after review shall be mailed to the parties thereto at their last known addresses. The review determination shall state the basis therefor and advise the parties of their right to a hearing when the amount in controversy is $100 or more as determined in accordance with § 405.820(b). The notice will state the place and manner of requesting a hearing as well as the time limit during which a hearing must be requested (see §§ 405.820 and 405.821).

§ 405.812 Effect of review determination.

The review determination shall be final and binding upon all parties to such review unless a hearing determination is rendered pursuant to a request made in accordance with § 405.821 or is revised in accordance with § 405.841.

§ 405.820 Right to hearing.

(a) *General.* Any party designated in § 405.822 shall be entitled to a hearing after a review determination has been made by the carrier if the amount in controversy is $100 or more as determined in accordance with paragraph (b) of this section when such party files a written request for a hearing.

(b) *Amount in controversy.* For the purpose of determining an individual's right to a hearing under paragraph (a) of this section:

(1) The amount in controversy shall be computed as the actual amount charged the individual for the items and services in question, less any amount for which payment has been made by the carrier and less any deductible and coinsurance amounts applicable in the particular case.

(2) Any series of claims by the same party or parties to the determinations for which the requests for hearing have been timely filed but on which no decisions by a hearing officer have previously been made shall be considered collectively in determining the amount in controversy.

(3) The determination as to whether the amount in controversy is $100 or more shall be made by the hearing officer.

(c) *Place of filing request.* The hearing request must be filed at an office of the carrier or at an office of the Social Security Administration.

(d) *Time of filing request.* Except where the initial determination has been made at a hearing (where a claim is not acted upon with reasonable promptness (see § 405.801)), there shall be provided a period of 6 months after the date of the notice of the review determination within which a party to the initial or review determination may request a hearing. The carrier may, upon request by the party affected, extend the period for filing the request for hearing.

§ 405.821 Request for hearing.

A request for a hearing is any clear expression in writing by a claimant asking for a hearing to adjudicate his claim when not acted upon with reasonable promptness, or by a party to a review determination which states, in effect, that he is dissatisfied with the carrier's review determination and wants further opportunity to appeal the matter to the carrier.

§ 405.822 Parties to a hearing.

The parties to a hearing shall be the persons who were parties to the carrier's review determination (§ 405.808) which is in question. Any other person may be made a party if that person's rights with respect to supplementary medical insurance benefits may be prejudiced by the decision.

§ 405.823 Hearing officer.

Any hearing provided for in this subpart shall be conducted by a hearing officer designated by the appropriate official of the carrier.

5. In § 405.832 paragraph (d) is redesignated as (e) and a new paragraph (d) is added to read as follows:

§ 405.832 Dismissal of request for hearing.

* * * * *

(d) *Dismissal without prejudice.* The hearing officer may on his own motion dismiss without prejudice a hearing request where the amount in controversy is less than $100.

6. Section 405.841 is revised to read as follows:

§ 405.841 Reopening initial or review determination of the carrier, and decision of a hearing officer.

An initial or review determination of a carrier or a decision of a hearing officer may be reopened by such carrier or hearing officer:

(a) Within 12 months from the date of the notice of such initial or review determination or decision to the party to such determination or decision; or

(b) After such 12-month period, but within 4 years from the date of the notice of the initial determination to the party to such determination, upon establishment of good cause for reopening such determination or decision (see § 404.958 of Part 404); or

(c) At any time, when:

(1) Such initial or review determination or decision was procured by fraud or similar fault of the beneficiary or some other person, or

(2) Such initial or review determination or decision is unfavorable, in whole or in part, to the party thereto, but only for the purpose of correcting a clerical error or error on the face of the evidence on which such determination or decision was based.

7. Paragraph (b) of § 405.842 is revised to read as follows:

§ 405.842 Notice of reopening and revision.

* * * * *

(b) *Effect of revised determination.* The revision of a determination (see § 405.841) shall be final and binding upon all parties thereto unless a party files a written request for a hearing with respect to a revised determination when the amount in controversy is $100 or more.

[FR Doc.74-7650 Filed 4-2-74;8:45 am]

[Regs. 10, further amended]

PART 410—FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969, TITLE IV—BLACK LUNG BENEFITS (1969-.....)

Subpart E—Payment of Benefits

ELIGIBILITY BASED ON COAL MINER EMPLOYMENT OF MORE THAN ONE MINER

On October 3, 1973, there was published in the FEDERAL REGISTER (38 FR 27406) a notice of proposed rulemaking with a proposed amendment to Subpart E of Regulations No. 10 adding a new paragraph (g) to § 410.510. The proposed amendment provides that the benefits payable to or on behalf of an individual who is entitled to black lung benefits and/or qualifies as a dependent for purposes of augmentation of benefits, based on the disability or death due to pneumoconiosis arising out of the coal mine employment of more than one miner, shall be at a rate equal to the highest rate of benefits for which entitlement was established by reason of eligibility as a beneficiary, or by reason of his or her qualification as a dependent for benefit augmentation purposes.

Interested parties were given the opportunity to submit within 30 days data, views or arguments. The 30-day period has passed and no comments have been received. Accordingly, the amendment as proposed is hereby adopted.

Effective date. The amendment shall be effective on April 3, 1974.

(Catalog of Federal Domestic Assistance Program No. 13.806, Special Benefits for Disabled Coal Miners)

Dated: March 8, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: March 28, 1974.

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

Part 410 of Chapter II of Title 20 of the Code of Federal Regulations is amended as follows:

In § 410.510, new paragraph (g) is added to read as follows:

§ 410.510 Benefit rates.

* * * * *

(g) *Eligibility based on the coal mine employment of more than one miner.* Where an individual, for any month, is entitled (and/or qualifies as a dependent for purposes of augmentation of benefits) based on the disability or death due to pneumoconiosis arising out of the coal mine employment of more than one miner, the benefit payable to or on behalf of such individual shall be at a rate equal to the highest rate of benefits for which entitlement is established by reason of eligibility as a beneficiary, or by reason of his or her qualification as a dependent for augmentation of benefit purposes.

(Secs. 411(a), 412 (a) and (b), 413(b), 426(a), and 508, 83 Stat. 793-794, as amended, 83 Stat. 798, as amended, 83 Stat. 803, as amended; (30 U.S.C. 921(a), 922 (a) and (b), 923(b), 936(a), and 957).)

[FR Doc.74-7649 Filed 4-2-74;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

The Commissioner of Food and Drugs, having evaluated data in a petition (FAP 1J2702) filed by Stein, Hall & Co., Inc., 605 Third Ave., New York, NY 10016, and other relevant material, concludes that the food additive regulations (21 CFR Part 121) should be amended, as set forth below, to provide for the safe use of polysorbate 80 as a defoaming agent in the preparation of the creaming mixture for cottage cheese and lowfat cottage cheese.

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), § 121.1009 is amended by adding a new paragraph (c)(13) to read as follows:

§ 121.1009 Polysorbate 80.

* * * * *

(c) * * *

(13) As a defoaming agent in the preparation of the creaming mixture for cottage cheese and lowfat cottage cheese, as identified in §§ 19.530 and 19.531 of this chapter, respectively, whereby the amount of the additive does not exceed .008 percent by weight of the finished products.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before May 3, 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 April 3, 1974.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: March 21, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-7611 Filed 4-2-74;8:45 am]

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANATION OR INJECTION

Oxytocin Injection, Veterinary

The Commissioner of Food and Drugs has evaluated a new animal drug application (46-788V) filed by Fort Dodge Laboratories, Fort Dodge, IA 50501, providing for the safe and effective use of oxytocin injection, veterinary for the treatment of horses, cows, sows, ewes, dogs, and cats. The 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 135b is amended by revising § 135.b64(b) to read as follows:

§ 135b.64 Oxytocin injection, veterinary.

* * * * *

(b) *Sponsor.* See code Nos. 017, 080 and 095 in § 135.501(c) of this chapter.

* * * * *

Effective date. This order shall be effective on April 3, 1974.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: March 8, 1974.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.74-7616 Filed 4-2-74;8:45 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Methocarbamol Injection

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (38-838V) filed by A. H. Robins Co., Research Laboratories, 1211 Sherwood Ave., Richmond, VA 23220, proposing use of methocarbamol injection in the treatment of 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 135b is amended by revising § 135b.-17(d) to read as follows:

§ 135b.17 Methocarbamol injection.

* * * * *

(d) *Conditions of use.* (1) The drug is administered to dogs, cats, and horses as an adjunct to therapy for acute inflammatory and traumatic conditions of the skeletal muscles and to reduce muscular spasms and in horses to effect striated muscle relaxation.

(2) The drug is administered intravenously. For relief of moderate conditions in dogs and cats, a dose of 20 milligrams per pound of body weight may be adequate. An initial dose in dogs and cats of 25 to 100 milligrams per pound of body weight is suggested for controlling the severe effects of strychnine poisoning and tetanus. Additional amounts may be needed in dogs and cats for relieving residual effects and for preventing the recurrence of symptoms. A total cumulative dose in dogs and cats of 150 milligrams per pound of body weight should not be exceeded. For relief of moderate conditions in horses, a dose of 2 to 10 milligrams per pound of body weight to effect is recommended; and for severe conditions (tetanus), a dose of 10 to 25 milligrams per pound of body weight to effect is recommended.

(3) Not to be used in horses intended for food.

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

Effective date. This order shall be effective April 3, 1974.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: March 18, 1974.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.74-7614 Filed 4-2-74;8:45 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Phenylbutazone

The Commissioner of Food and Drugs has evaluated a new animal drug application (93-105V) filed by A. H. Robins Co., Research Laboratories, 1211 Sherwood Ave., Richmond, VA 23220, proposing safe and effective use of phenylbutazone tablets for the treatment of horses. The 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), § 135c.57 is amended by revising paragraph (f)(1) and (3) to read as follows:

§ 135c.57 Phenylbutazone tablets and boluses.

* * * * *

(f)(1) *Specifications.* The drug is in tablet form with each tablet containing 100 milligrams or 1 gram of phenylbutazone.

* * * * *

(3) *Conditions of use.* (i) It is used for the relief of inflammatory conditions associated with the musculoskeletal system in dogs and horses.

(ii) It is administered orally at the following dosage levels:

(*a*) To dogs at 20 milligrams per pound of body weight in three divided doses daily, not to exceed dosage level of 800 milligrams per day regardless of body weight.

(*b*) To horses at 1 to 2 grams per 500 pounds of body weight, not to exceed dosage level of 4 grams per day.

(c) Dosage should be reduced as symptoms regress.

(iii) Not to be used in horses intended for food.

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

* * * * *

Effective date. This order shall be effective April 3, 1974.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: March 18, 1974.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.74-7615 Filed 4-2-74;8:45 am]

PART 135—NEW ANIMAL DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Diethylcarbamazine Citrate Syrup

The Commissioner of Food and Drugs has evaluated a new animal drug application (92-837V) filed by Hart-Delta, Inc., 5055 Choctaw Drive, Baton Rouge, LA 70805, proposing the safe and effective use of diethylcarbamazine citrate syrup in dogs for the removal of Toxocara canis. The application is approved.

To facilitate referencing, the firm is being assigned a code number and placed in the list of firms in § 135.501 (21 CFR 135.501).

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), Parts 135, and 135c are amended as follows:

1. Section 135.501 is amended in paragraph (c) by adding a new code No. 102 as follows:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *

Code No.	*Firm name and address*
* * *	* * *
102	Hart-Delta, Inc., 5055 Choctaw Drive, Baton Rouge, LA 70805.

2. Part 135c is amended in § 135c.52 by adding a new paragraph (c) as follows:

§ 135c.52 Diethylcarbamazine citrate syrup.

* * * * *

(c)(1) *Specifications.* Each milliliter of syrup contains 60 milligrams of diethylcarbamazine citrate.

(2) *Sponsor.* See code No. 102 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) The drug is indicated for use in dogs between the ages of 4 weeks and 8 months of age, for the removal of *Toxocara canis*.

(ii) The drug is administered at a dosage level of 50 milligrams per pound of body weight divided into two equal doses and administered 8–12 hours apart (morning and night) mixed with either dry or wet food.

(iii) Dogs older than 8 months of age may be infected with *Dirofilaria immitis*. Use of the drug is contraindicated in dogs with active *D. immitis* infections.

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

Effective date. This order shall be effective April 3, 1974.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: March 21, 1974.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.74-7610 Filed 4-2-74;8:45 am]

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Ipronidazole; Correction

In FR Doc. 74-4531 appearing at page 7579 in the FEDERAL REGISTER of Wednesday, February 27, 1974, § 135.56(e) is corrected to read as follows:

§ 135e.56 Ipronidazole.

* * * * *

(e) *Special considerations.* Finished feed processed from feed supplements that contain up to 0.0625 percent ipronidazole and that comply with the provisions of both this paragraph and paragraph (f) of this section is not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

* * * * *

Dated: March 21, 1974.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.74-7609 Filed 4-2-74;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Subpart A—Pension, Compensation and Dependency and Indemnity Compensation

GUARDIANSHIP AND INSTITUTIONAL AWARDS

On page 4673 of the FEDERAL REGISTER of February 6, 1974, there was published a notice of proposed regulatory development to amend §§ 3.850, 3.851, 3.852, 3.855 and 3.857 to reflect that their provisions are applicable equally to male and female veterans. In addition it was proposed to amend § 3.852 by increasing the amount available on an award on behalf of an incompetent veteran without dependents to the chief officer of an institution in which he is hospitalized. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

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

Effective date. These VA Regulations are effective March 26, 1974, except the change in monetary amount in § 3.852(b) which is effective January 1, 1974, pursuant to Pub. L. 93-177 (87 Stat. 694).

Approved: March 26, 1974.

By direction of the Administrator.

[SEAL] R. L. ROUDEBUSH,
Deputy Administrator.

1. In § 3.850, paragraph (a) is amended to read as follows:

§ 3.850 General.

(a) Payment of benefits to a duly recognized fiduciary will be made on behalf of a person who is mentally incompetent or who is a minor; however, payments may be made direct to a minor who is serving in or has been discharged from the military forces of the United States or a minor widow or widower. Direct payment to such a child or widow (widower) without the appointment of a fiduciary is not mandatory but depends upon the circumstances involved. In any case of an incompetent veteran having no guardian, payment of benefits may be made to the wife (or husband) of such veteran for the use of the veteran and his (or her) dependents.

* * * * *

2. Section 3.851 is revised to read as follows:

§ 3.851 St. Elizabeths Hospital, Washington, D.C.

Benefits due or becoming due any person who is a patient at St. Elizabeths Hospital will be paid to a duly appointed fiduciary of such person. The benefits payable to a veteran who has no wife (or husband), child, or dependent parent will be paid by an institutional award in accordance with § 3.852 if there is no such fiduciary. Benefits payable to veterans' dependents who are patients at this hospital will be paid only to a fiduciary of such dependent, except that any awards now being paid to the superintendent will be continued while such dependent remains a patient.

3. In § 3.852, the introductory portion of paragraphs (a) and (b) preceding subparagraph (1) and paragraph (b) (2) and (3) are amended to read as follows:

§ 3.852 Institutional awards.

(a) When an incompetent veteran entitled to pension, compensation or retirement pay is a patient in a hospital or other institution, payments on his (or her) account may be made to the chief officer of a Veterans Administration or non-Veterans Administration institution:

* * * * *

(b) In an institutional award of pension, compensation or retirement pay there may be paid to the chief officer of a non-Veterans Administration institution on behalf of the veteran an amount not in excess of $50 per month. An institutional award of disability pension will not exceed $10 per month if the award is apportionable under § 3.454(a).

* * * * *

(2) There may be paid on behalf of a veteran, having no wife (or husband), child or dependent parent and receiving care in a non-Veterans Administration institution, such additional amount, within the limit of the total payable and as may be certified by the Veterans Assistance Officer, needed for the benefit of the veteran and to pay for his (or her) care and maintenance. Moneys on deposit in Personal Funds of Patients will not be used for this purpose except as authorized by the Veterans Assistance Officer under § 13.72 of this chapter.

(3) If the veteran has dependents, or more is payable under his (or her) rating, or there are funds to his (or her) credit in "Funds Due Incompetent Beneficiaries," such additional amount as may be needed will be allowed on the basis of a certification by the chief officer with respect to need and amount required.

* * * * *

4. In § 3.855, paragraph (b) is amended to read as follows:

§ 3.855 Beneficiary reported incompetent.

* * * * *

(b) *Evidence of incompetency other than notice of commitment or of appointment of guardian.* If information other than that described in paragraph (a) of this section is received and it is indicated that the beneficiary may be incompetent or is not receiving or is being deprived of the full benefits being paid, the Veterans Assistance Officer will be requested to determine whether a fiduciary should be appointed. Payments will not be discontinued pending receipt of the Veterans Assistance Officer's report unless necessary as a protective measure.

5. Section 3.857 is revised to read as follows:

§ 3.857 Children's benefits to fiduciary of widow or widower.

Where children are separated from the widow or widower by reason of her (or his) incompetency, no apportionment is required. All amounts payable on behalf of the children may be paid to the fiduciary of the widow or widower provided the fiduciary is adequately taking care of the needs of the children from the beneficiary's estate voluntarily or pursuant to a decree of court.

[FR Doc.74-7638 Filed 4-2-74;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Corrections and Revisions to the New Jersey Transportation Control Plan

On November 6, 1973, EPA published in the FEDERAL REGISTER, (38 FR 30626), a preamble to its transportation control plan that was promulgated on that date. In the preamble EPA invited written comments on all aspects of its transportation control plans.

On November 13, 1973, EPA published in the FEDERAL REGISTER, (38 FR 31388), the New Jersey Transportation Control Plan. The November 6, 1973 preamble was incorporated by reference.

On December 7, 1973, EPA published in the FEDERAL REGISTER proposed revisions to §§ 52.1588 and 52.1590 (38 FR 33775). Public hearings were held on January 10, 11, and 12, 1974. Final action on the proposals will be forthcoming shortly. The purpose of this rulemaking is to correct and amend certain sections of the original plan.

The complexity of the strategies which had to be developed necessitated a delay in final promulgation of the plan. As a result of this delay, compliance dates in §§ 52.1583, 52.1584, 52.1585, 52.1587, 52.-1589, 15.1591, 52.1593, 52.1597 only as it applies to §§ 52.1596, and 52.1600 are being postponed to allow time for development of compliance schedules and for submittal of adopted regulations. The compliance dates in §§ 52.1598 and 52.1599 are being extended in a separate rulemaking.

Section 52.1599 is being corrected to extend its applicability to the New Jersey portion of the Metropolitan Philadelphia Interstate Region. This was omitted in the November 13, 1973 publication although it is discussed in the preamble, (38 FR 31391), and its impact was included in Table 4, (38 FR 31392), where the strategy effects are tabulated.

Either a displacement-type vapor recovery system or a more complex refrigeration-condensation, adsorption, or equivalent system is acceptable to comply with the various vapor recovery regulations, provided that any displacement system used be amenable to conversion to the more efficient systems in the future. However, the word "or" was inadvertently dropped in paragraph (d) of § 52.1599 as published, making it appear that the more complex systems were required, rather than merely acceptable as alternatives. The missing word is present in the identically-worded paragraphs in the regulations for California, 40 CFR 52.256(d), 38 FR 31252 (November 12, 1973), for the District of Columbia, 40 CFR 52.488(d), 38 FR 33712 (December 6, 1973), and for other regions. As corrected, paragraph (d) will require "a vapor-tight return line from the fill nozzlefiller neck interface to the dispensing tank, or to an adsorption, absorption, incineration, refrigeration-condensation system or equivalent".

Similarly, a paragraph which cross references a paragraph in § 52.1598 was inadvertently dropped from § 52.1599. This cross reference is added back into § 52.-1599 as a new paragraph (e) to make it clear that a displacement system may also be used for vehicular vapor recovery provided it is amenable to conversion in the future. Such a cross reference appears in the identical regulation for vehicular vapor recovery promulgated for California, 40 CFR 52.256(e), 38 FR 31252 (November 12, 1973), for the District of Columbia, 40 CFR 52.488(e) 38 FR 33712 (December 6, 1973), and for other regions.

Section 52.1586 is not being extended because it presently allows sufficient lead time for program development and for compliance schedule submittal by July 1, 1974. Section 52.1592 is a contingency regulation with no compliance dates prior to 1977. Section 52.1597 as it applies to §§ 52.1594 and 52.1595 is also not being extended because comments indicated that the present schedule presents no problems to affected sources.

These amendments will not alter the final date of compliance as originally promulgated.

Because of the shortness of time before some of the initial compliance dates were to become due and in light of the public comments and other considerations noted above, the Administrator finds that good cause exists for making these changes effective April 4, 1974. Consistent with the policy announced in the November 6, 1973, FEDERAL REGISTER regarding public comments on finally promulgated measures, public comment is invited until April 10, 1974, on the extension of § 52.1599 to the Philadelphia area. Comments should be sent to the Regional Administrator, EPA Region II, Room 1009, 26 Federal Plaza, New York, New York 10007.

(Sec. 110(c), 301(a), Clean Air Act (42 U.S.C. 1857c-5(c) and 1857(g)).)

Dated: March 28, 1974.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart FF—New Jersey

§ 52.1583 [Amended]

1. In § 52.1583, "Regulation for yearly inspection and maintenance", paragraph (c) is revised by changing the date "April 1, 1974" to "July 1, 1974" and paragraph (f) is revised by changing the date "February 1, 1974" to "April 15, 1974".

§ 52.1584 [Amended]

2. In § 52.1584, "Exhaust gas recirculation retrofit", paragraph (c) is revised by changing the date "July 1, 1974" to "September 1, 1974" and paragraph (g) is revised by changing the date "February 15, 1974" to "July 1, 1974".

§ 52.1585 [Amended]

3. In § 52.1585, "Oxidizing catalyst retrofit", paragraph (c) is revised by changing the date "March 1, 1974" to "September 1, 1974" and paragraph (f) is revised by changing the date "February 15, 1974" to read "July 1, 1974".

§ 52.1587 [Amended]

4. In § 52.1587, "Regulation limiting on-street parking", paragraph (b) is revised by changing the date "May 1, 1974" to "January 1, 1975" and by changing the date "March 1, 1974" to "September 1, 1974"; paragraph (c) is revised by changing the date "May 1, 1974" to "January 1, 1975"; paragraph (d) is revised by changing the date "January 1, 1974" to "July 1, 1974"; and paragraph (e)(2) is revised by changing the word "east" to "west".

§ 52.1589 [Amended]

5. In § 52.1589, "Preferential bus/carpool treatment", paragraph (d) is revised by changing the date "March 1, 1974" to "July 1, 1974"; paragraph (f) is revised by changing the date "August 1, 1974" to "October 1, 1974"; and paragraph (i) is revised by changing the date "March 1, 1974" to "July 1, 1974".

§ 52.1591 [Amended]

6. In § 52.1591, "Regulation for a vehicle free zone", paragraph (c) is revised by changing the date "March 1, 1974" to "July 1, 1974" and paragraph (d) is revised by changing the date "August 1, 1974" to "September 1, 1974".

§ 52.1593 [Amended]

7. In § 52.1593, "Monitoring transportation mode trends" paragraph (c) is revised by changing the date "March 1, 1974" to "July 1, 1974".

8. In § 52.1597 subparagraphs (1), (2) and (3) of paragraph (b) and subparagraphs (1) and (3) of paragraph (c) are revised to read as follows:

§ 52.1597 Federal compliance schedules.

* * * * *

(b)(1) On or before February 15, 1974, submit to the Administrator a final control plan that describes at a minimum the steps that must be taken by the source to achieve compliance with §§ 52.1594 and 52.1595. On or before April 15, 1974, submit to the Administrator a plan that describes at a minimum the steps that must be taken by the source to achieve complance with § 52.1596.

(2) On or before April 15, 1974, negotiate and sign all necessary contracts for emission control systems or process modifications, or issue orders for the purchase of components to accomplish emission control or process modification for compliance with §§ 52.1594 and 52.1595. For compliance with § 52.1596 these actions shall be completed by June 1, 1974.

(3) On or before July 1, 1974, initiate on-site construction or installation of emission control equipment or process modification for compliance with §§ 52.1594 and 52.1595. For compliance

with § 52.1596, these actions must be initiated by August 1, 1974.

* * * * *

(c)(1) A source which is presently in compliance with §§ 52.1594, 52.1595 and 52.1596 and which has certified such compliance to the Administrator by February 15, 1974 for §§ 52.1594 and 52.1595 and by April 15, 1974 for § 52.1596. The Administrator may request whatever supporting information he considers necessary for proper certification.

(c) * * * (3) A source whose owner or operator submits to the Administrator by February 15, 1974 for §§ 52.1594 and 52.1595 and by April 15, 1974 for § 52.1596 a proposed alternative schedule. No such schedule may provide for compliance after May 31, 1975. If promulgated by the Administrator such schedule shall satisfy the requirements of this section for the affected source.

9. In § 52.1599 paragraphs (b) and (d) are revised, a new paragraph (e) is added, and existing paragraphs (e) through (i) are renumbered accordingly:

§ 52.1599 Control of evaporative losses from the filing of vehicular tanks.

* * * * *

(b) This section is applicable in the New Jersey portions of the New Jersey-New York-Connecticut and Metropolitan Philadelphia Interstate Regions.

* * * * *

(d) The system referred to in paragraph (c) of this section can consist of a vapor-tight vapor return line from the fill nozzle-filler neck interface to the dispensing tank, or to an adsorption, absorption, incineration, refrigeration-condensation system or equivalent.

(e) Components of the systems required by paragraph (c) of § 52.1598 can be used for compliance with paragraph (c) of this section.

§ 52.1600 [Amended]

10. In § 52.1600 "Carpool matching and promotion system", paragraph (c)(1) and (c)(3) are revised by changing the date "March 1, 1974" to "July 1, 1974".

[FR Doc.74-7618 Filed 4-2-74;8:45 am]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Plan Revision for Pennsylvania

On May 31, 1972 (37 FR 10842) pursuant to section 110 of the Clean Air Act the Administrator approved a plan implementing National Ambient Air Quality Standards for the State of Pennsylvania. This publication contains the Administrator's approval of a revision to that plan.

On October 15, 1973, in a letter to the Governors of fourteen States, including Pennsylvania, the Administrator advised that the responsible State agencies should proceed quickly to devise and initiate a strategy to prevent, to the greatest degree possible, any detrimental air pollution effects that might result from a probable low sulfur fuel shortage during the coming winter months. The Administrator emphasized the need for states to undertake feasible energy conservation measures either prior to or concurrently with any variance requests in order to minimize the need for variances. Among the other measures recommended was the formulation, according to the anticipated degree of shortage, of a comprehensive variance plan for sulfur content in fuel regulations. Priorities for granting variances would be established which would encourage the distribution (or allocation) of available low sulfur fuel to areas where it would be most needed for the protection of public health. The Administrator described the procedures governing Governor's submissions of such variances to the Environmental Protection Agency for approval as implementation plan revisions. Criteria for approval would be as follows:

1. Compliance with EPA procedural requirements.

2. A demonstration (a) that fuel with a sulfur content low enough to enable compliance with the applicable regulation is in fact unavailable to the source, (b) that the variance requires the use of the lowest sulfur content fuel that is available, and (c) that the time period involved reflects the reasonably predicted period of shortage.

3. A demonstration that low sulfur fuel that might have been available to the source involved (a) is no longer available, or (b) has been allocated or distributed to other sources deserving higher priority either because of air quality considerations, or because of a Federally imposed allocation plan.

On October 3, 1973, pursuant to 40 CFR 51.4(e), the Governor of Pennsylvania's designee requested EPA approval of a procedure incorporating a 10 day notice period for State public hearings for sulfur content variance requests. On November 7, 1973, the Regional Administrator for EPA Region III granted this request.

On January 3, 1974, the Pennsylvania Department of Environmental Resources submitted for the Administrator's approval a variance to the Philadelphia portion of the approved State Implementation Plan for Philadelphia Electric Company of Philadelphia. The Philadelphia Code requires that No. 6 residual fuel oil combustion sources use fuel with no greater sulfur content than 0.5 percent by weight. The variance would permit Philadelphia Electric Company to use fuel with a maximum sulfur content of 1.25 percent by weight for a period extending from January 1, 1974 to March 31, 1974.

In a similar action, on January 16, 1974, the Pennsylvania Department of Environmental Resources submitted for the Administrator's approval a variance to the Philadelphia portion of the approved State Implementation Plan for Rohm and Haas Company of Philadelphia. The variance would permit Rohm and Haas Company to use fuel with a maximum sulfur content of 1.25 percent by weight for a period extending from January 1, 1974 to April 30, 1974.

After a careful evaluation of the State's submittals, the Administrator has determined that the variances are in accordance with the criteria stated above, and are therefore in accordance with the procedural and substantive requirements of 40 CFR Part 51. Information submitted by the State, corroborated by the Agency's own information, indicates that fuel allocation and redistribution measures cannot obviate the need for the variances requested, either in the degree or in the time allowed. Accordingly, they are approved as revisions to the Pennsylvania Implementation Plan. As approved, they are reflected in the table below.

The State's submittals are available for public inspection during normal business hours at the offices of EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106; Air Management Services, Department of Public Health, 4320 Wissahickon Avenue, Philadelphia, Pennsylvania 19129; the Bureau of Air Quality and Noise Control, Department of Environmental Resources, Fulton National Building, 18th Floor, P.O. Box 2063, Harrisburg, Pennsylvania 17120; and at the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C. 20460. In addition, EPA's evaluations of the State's submittals are available during normal business hours at the EPA Region III address listed above.

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

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

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

Dated: March 28, 1974.

RUSSELL TRAIN,
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart NN—Pennsylvania

Section 52.2036 is amended by revising the table in paragraph (a) and inserting additional lines in that table, as follows:

§ 52.2036 Compliance schedules.

(a) * * *

Source	Location	Regulation involved	Date of adoption	Effective date	Final compliance date
Philadelphia Electric Co.	Philadelphia County	Section 30201(a) and 30207(i)(a) (Philadelphia Air Management Code); Air Management Regulation III, Section IA.	Jan. 25, 1974	Jan. 1, 1974	Mar. 31, 1974
Rohm and Haas Co	do	do	Jan. 11, 1974	do	Apr. 30, 1974

[FR Doc.74-7619 Filed 4-2-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 14—DEPARTMENT OF THE INTERIOR

PART 14-1—GENERAL

PART 14-26—CONTRACT MODIFICATIONS

Novation Agreements and Change of Name Agreements

Pursuant to the authority of the Secretary of the Interior in 5 U.S.C. 301, Part 14-1 and Part 14-26 of Chapter 14 of Title 41 of the Code of Federal Regulations are hereby amended.

It is the general policy of the Department of the Interior to allow time for interested parties to participate in the rulemaking process. However, the amendments herein are minor and entirely administrative in nature. Therefore, the public rulemaking process is waived and these changes will become effective on April 15, 1974.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

MARCH 28, 1974.

1. Part 14-1 of the Interior Procurement Regulations is amended by deleting the caption and the text of Subpart 14-1.51 and to provide that it is reserved. Coverage of Subpart 14-1.51 is now provided by FPR Subpart 1-26.4. Interior supplementation is included in Subpart 14-26.4.

Subpart 14-1.51 [Reserved]

2. New Part 14-26 and Subpart 14-26.4 of the Interior Procurement Regulations are added with table of contents to read as follows:

Subpart 14-26.4 Novation and Change of Name Agreements

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

3. Part 14-26 and Subpart 14-26.4 of the Interior Procurement Regulations shall read as follows:

Subpart 14-26.4 Novation and Change of Name Agreements

§ 14-26.402 Agreement to recognize a successor in interest.

(a) For protection of Government rights in accrual of inventions, patents and data, the novation agreement in § 1-26.402(e) of this title is supplemented by adding a paragraph immediately preceding "In witness whereof" to read as follows:

10. The Transferor agrees that any rights in inventions, patents, and data which accrue to the Government or to third party beneficiaries under the contracts between the Transferor and the Government shall not be diminished as a result of the transfer instruments or this agreement.

* * * * *

§ 14-26.404 Processing novation and change of name agreements.

(a) The contracting officer shall, prior to execution of an agreement, obtain the opinion of the appropriate Solicitor's Office as to the legal sufficiency of the documents furnished by the contractor.

(b) In addition to the distribution required by § 1-26.404(c) of this title, a copy of the executed novation agreement or change of name agreement shall be forwarded by the contracting officer of the procuring activity to the Office of Management Services, Division of Procurement which shall maintain a record of all contractors having novation agreements or change of name agreements with procuring activities of the Department.

(c) An Interior contracting officer who is advised by a contractor of the need for a novation of change of name agreement shall contract all affected Interior contracting officers (and is encouraged to contact all other affected Government contracting officers) to determine whether or not they desire him to act as their representative for the purposes set forth in § 1-26.404(e) of this title.

[FR Doc.74-7579 Filed 4-2-74;8:45 am]

PART 14-12—LABOR

PART 14-18—PROCUREMENT OF CONSTRUCTION

Labor Standards for Construction Contracts

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, Part 14-12 and Part 14-18 of Chapter 14 of Title 41 of the Code of Federal Regulations, are hereby amended.

It is the general policy of the Department of the Interior to allow time for interested parties to participate in the rulemaking process. However, the amendments herein are entirely administrative in nature. Therefore, the public rulemaking process is waived and these changes will become effective on April 15, 1974.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

MARCH 28, 1974.

1. Part 14-12 of the Interior Procurement Regulations is amended by deleting the caption and the text of Subpart 14-12.1 and § 14-12.150 and to provide that they are reserved. The text of § 14-12.150 is being transferred to Subpart 14-18.7.

Subpart 14-12.1 [Reserved]

§ 14-12.150 [Reserved]

2. Part 14-18 of the Interior Procurement Regulations is amended by deleting the word "contracts" from the title of the part. As amended, the part reads as set forth above.

3. Part 14-18 of the Interior Procurement Regulations is amended by adding the following to the table of contents:

Subpart 14-18.7—Labor Standards for Contracts Involving Construction

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

4. Part 14-18 of the Interior Procurement Regulations is amended by adding a new Subpart 14-18.7 as follows:

Subpart 14-18.7—Labor Standards for Contracts Involving Construction

§ 14-18.704 Wage determinations.

§ 14-18.704-1 General.

In accordance with 29 CFR 1.4 and to the extent practicable, at the beginning of each fiscal year each procuring activity using wage determinations shall furnish each Employment Standards Administration (ESA) Regional Office with a general outline of its proposed construction programs for the coming year in the area covered by that ESA regional office indicating the estimated number of projects for which wage determinations will be required, the anticipated types of construction, and the locations of construction. During the fiscal year, each procuring activity shall notify the ESA regional office of any significant changes in its proposed construction programs, as outlined at the beginning of the fiscal year.

§ 14-18.704-8 Wage determinations appeals.

Procuring activities, after appropriate coordination with the Office of the Solicitor, may file a petition for review of or intervention in any matter which it appears may appropriately be brought before the Wage Appeals Board.

§ 14–18.705 Administration and enforcement.

§ 14–18.705–1 Policy.

The heads of procuring activities and their designees are authorized to take the actions required by § 1–18.705 of this title.

§ 14–18.705–2 Wages, fringe benefits, and overtime.

The heads of procuring activities and their designees are authorized to submit questions to the Department of Labor for determinations in accordance with § 1–18.705–2(b) of this title.

§ 14–18.705–10 Reports.

(a) *Semiannual reports.* The reports required by § 1–18.705–10 of this title shall be prepared by each procuring activity and forwarded to the Director of Management Services within 25 days after the close of the reporting period. Within the next 5 days a report will be submitted by the Office of Management Services to the U.S. Department of Labor, Employment Standards Administration, 711 14th Street, NW., Washington, D.C. 20210.

(1) The report shall contain the following information which shall be stated separately, as applicable, in two columns—one column for construction work subject to the Davis-Bacon Act and Contract Work Hours and Safety Standards Act and the other column for nonconstruction work subject to the Contract Work Hours and Safety Standards Act:

(i) Period covered;

(ii) Number of contracts awarded;

(iii) Total dollar amount of prime contracts awarded;

(iv) Number of contractors and subcontractors against whom complaints were received;

(v) Number of investigations completed;

(vi) Number of contractors and subcontractors found in violation;

(vii) Amount of wage restitution found due:

(A) Davis-Bacon and Related Acts; and

(B) Contract Work Hours and Safety Standards Act;

(viii) Number of employees due wage restitution under the Davis-Bacon and Related Acts, and the Contract Work Hours and Safety Standards Act;

(ix) Amount of liquidated damages assessed under the Contract Work Hours and Safety Standards Act;

(x) Name, title, agency, procuring activity, and telephone number of person submitting the report; and

(xi) Remarks.

[FR Doc.74–7576 Filed 4–2–74;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5419]

[Colorado 15862, 15893]

COLORADO

Partial Revocation of Reclamation Withdrawal; Partial Revocation of National Forest Administrative Site Withdrawal

By virtue of the authority contained in section 3 of the Act of June 17, 1902, as amended and supplemented, 43 U.S.C. section 416 (1970), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. The departmental order of June 18, 1941, withdrawing lands for the San Luis Valley Reclamation Project is hereby revoked so far as it affects the following described lands:

[C–15862]

RIO GRANDE NATIONAL FOREST

NEW MEXICO PRINCIPAL MERIDIAN

T. 41 N., R. 1 E.,
Sec. 4, SW¼SE¼;
Sec. 5, An area in the NE¼SE¼ described by metes and bounds as follows:
Beginning at S. 1/16 sec. cor. of secs. 4 and 5; Thence by bearing and distance, N. 0°57′ E., 2.05 chains distance, N. 67°50′ W., 21.30 chains distance, S. 1°21′ W., 10.68 chains distance, N. 88°18′ E., 19.95 chains distance to the point of beginning, containing 12.67 acres (which area has been officially surveyed and will probably be identified as lot 6 when the plat of survey is accepted and officially filed in the Colorado State Office);
Sec. 9, SW¼NE¼SW¼, SE¼SW¼.

The total area described aggregates approximately 102.67 acres in Mineral County.

2. Public Land Order No. 2302 of March 14, 1961, withdrawing national forest lands for picnic grounds, campgrounds, and administrative sites is hereby revoked so far as it affects the following described lands:

[C–15863]

RIO GRANDE NATIONAL FOREST

NEW MEXICO PRINCIPAL MERIDIAN

Wason Administrative Site

T. 41 N., R. 1 E.,
Sec. 5, NE¼SE¼.

The area described contains 40 acres in Mineral County.

3. The land described in Paragraph 1 above, shall immediately become available for consummation of a pending Forest Service exchange. The land described in Paragraph 2 above, being the NE¼SE¼ of sec. 5, exclusive of that part of the NE¼SE¼ of sec. 5 described by metes and bounds in Paragraph 1 above, remains withdrawn from all forms of appropriation under the public land laws, including the United States mining laws, but not from leasing under the mineral leasing laws, for the San Luis Valley Reclamation Project.

JACK O. HORTON,
Assistant Secretary of the Interior.

MARCH 26, 1974.

[FR Doc.74–7578 Filed 4–2–74;8:45 am]

Title 49—Transportation

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

[Docket No. 71–18; Notice 7]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

PART 574—TIRE IDENTIFICATION AND RECORD KEEPING

Non-Passenger Car Tires; Labeling and Treatwear Indicators

This notice amends Standard No. 119, *New pneumatic tires for vehicles other than passenger cars,* 49 CFR 571.119, to specify lettering sizes and modified treadwear indicator requirements for tires. In addition, it amends Part 574, *Tire Identification,* 49 CFR Part 574, to permit the labeling of certain tires with the symbol DOT prior to the effective date of the standard. This notice also responds to petitions for reconsideration of Standard 119's effective date by maintaining the present date of March 1, 1975.

To avoid a costly production shutdown on the effective date to engrave tire molds with the DOT compliance symbol required by the standard, the National Highway Traffic Safety Administration (NHTSA) proposed a modification of the Part 574 prohibition on the symbol's use prior to the effective date (39 FR 3967, January 31, 1974). The Rubber Manufacturers Association and five tire manufacturers agreed that the DOT should be engraved on tire molds prior to the effective date, but objected to the expense of covering the DOT with a label stating that "no Federal motor vehicle safety standard applies to this tire," when the DOT appears on tires which (presumably) satisfy Standard 119 requirements. Firestone pointed out that the large label size could obscure other label information. Goodrich noted that, as proposed, the DOT could be molded on tires which met no standard and could mislead a user if the label fell off.

The NHTSA will not permit the appearance of the DOT compliance symbol on any item of motor vehicle equipment to which no standard is applicable. The

terms "applicability" and "applies" have only one meaning for Federal motor vehicle safety standards: that the vehicle or equipment concerned is subject to a safety standard. To permit use of the DOT symbol on vehicles or items of motor vehicle equipment to which no standard applies would confuse the meaning of the symbol and the concept of compliance.

In response to Firestone and Goodrich, the NHTSA has modified the lettering size on the label and limited use of the DOT symbol to tires for which a standard has been issued. With the small lettering size, the rubber labels used on retread tires can be applied over the DOT symbol in fulfillment of the requirement. Another method which manufacturers did not mention but which would be permissible is the removal of the DOT at the same time imperfections are buffed off the tire.

All comments on the proposal objected to the specific location requirements for treadwear indicators based on the concept of even tread wear across the tread width. Goodyear demonstrated in a meeting with the NHTSA Tire Division on February 13, 1974, and detailed in its submission to the Docket, the difficulty in equating ideal tire wear with actual road experience. They recommended the simpler concept that a tire has worn out when any major tread groove has only 2/32 in tread remaining. The NHTSA has concluded that treadwear indicators must be placed at the discretion of the manufacturer to give a person inspecting the tire visual indication of whether the tire has worn to a certain tread depth. Accordingly, the lateral location requirements for treadwear indicators have been deleted from the standard.

There was no discussion of the lettering size and depth proposal, and these proposals are adopted as proposed.

The comments requested reconsideration of the standard's March 1, 1975, effective date (published February 1, 1974, 39 FR 4087), asserting the need for 18 months of leadtime following publication of this notice to engrave tire molds as required by the standard. The NHTSA has found that 11 months is sufficient leadtime to accomplish these changes, and accordingly these petitions are denied.

To correct an inadvertent omission in the amendment of Standard No. 119 in response to petitions for reconsideration (39 FR 5190, February 11, 1974), superscripts are added to Table III entries for "All other, A, B, C, D range tires".

In consideration of the foregoing. Parts 571 and 574 of Title 49, Code of Federal Regulations, are amended as follows:

A. In 49 CFR 571.119, Standard 119, *New pneumatic tires for vehicles other than passenger cars.* 1. The portion of S6.4 from the words, "The indicators shall, as a minimum," to the end of the section, is deleted.

2. The sentence in S6.5 beginning "The marking shall be" is replaced by two sentences that read:

The marking shall be in letters and numerals not less than 0.078 inches high and raised above or sunk below the tire surface not less than 0.015 inches, except that the marking depth shall be not less than 0.010 inches in the case of motorcycle tires. The tire identification and the DOT symbol labeling shall comply with Part 574 of this chapter.

3. Table III is amended by the addition of a superscript "1" to the left of the number 75 in the sixth line of the column marked "I–7 hours", and by the addition of a superscript "2" to the left of the number 97 in the sixth line of the column marked "II–16 hours".

B. In Part 574, *Tire Identification*, the fourth sentence of § 574.5 is amended to read:

§ 574.5 Tire identification requirements.

* * * * *

* * * The DOT symbol shall not appear on tires to which no Federal Motor Vehicle Safety Standard is applicable, unless, in the case of tires for which a standard has been issued but which is not yet effective, the symbol is covered by a label that is not easily removable and that states in letters at least 0.078 inches high:

NO FEDERAL MOTOR VEHICLE SAFETY STANDARD APPLIES TO THIS TIRE

* * * * *

Effective date: Standard No. 119 amendments: March 1, 1975. Part 574 amendment: April 3, 1974. Because the Part 574 amendment creates no additional burden, and because modification of tire molds must begin immediately, it is found for good cause shown that an effective date less than 180 days after issuance is in the public interest.

(Secs. 103, 112, 119, 201, Pub. L. 89-563, 80 Stat. 718; 15 U.S.C. 1392, 1401, 1407, 1421; delegation of authority at 49 CFR 1.51.)

Issued on March 28, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74-7631 Filed 4-2-74;8:45 am]

Title 7—Agriculture

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

SUBCHAPTER A—AGRICULTURAL CONSERVATION PROGRAMS

[Amdt. 5]

PART 701—NATIONAL RURAL ENVIRONMENTAL ASSISTANCE PROGRAM FOR 1971 AND SUBSEQUENT YEARS

1973 Program Year

A lawsuit involving the termination of the 1973 Rural Environmental Assistance Program (REAP) on December 22, 1972, was filed in the United States District Court for the District of Columbia on January 25, 1973. On December 28, 1973, the court issued its memorandum opinion holding that the termination of the 1973 REAP was "unauthorized by law, illegal, and in excess of statutory authority." On February 7, 1974, the court further clarified its judgment by ordering the Department "to take such administrative action as is necessary to implement the 1973 Rural Environmental Assistance Program at the level contemplated by Congress to achieve the practices of the 1973 program with such speed as is administratively feasible" and by enjoining it "from refusing to process, approve, and implement applications for REAP cost-sharing benefits consistent with the requirements of applicable statutes and the above-mentioned administrative action." Therefore, in order to comply with the court's order, the regulation governing the 1973 REAP is amended to provide that the final date of the 1973 program year is extended through December 31, 1974.

The regulations governing the National Rural Environmental Assistance Program for 1971 and subsequent years, 36 FR 18289, 37 FR 2833, 37 FR 16787, 37 FR 16861, 37 FR 25996, 37 FR 26819, are hereby amended to revise § 701.3(d) to read as follows:

§ 701.3 Definitions.

* * * * *

(d) "Program Year" means the period designated in the State Program during which practices or components thereof must be carried out to be eligible for cost-sharing, except that the final date of the program year for the 1973 Rural Environmental Assistance Program is extended until December 31, 1974.

(Sec. 4, 49 Stat. 164, 16 U.S.C. 590d)

Effective date. Since the United States District Court ordered the implementation of the 1973 REAP with such speed as is administratively feasible, it is essential that the foregoing amendment be made effective as soon as possible. It is hereby found and determined that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Accordingly this amendment shall become effective on April 2, 1974.

Signed at Washington, D.C., on March 28, 1974.

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

[FR Doc.74-7623 Filed 4-2-74;8:45 am]

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

[Export Reg. 23, Amdt. 3]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Amendment of Grade Regulations

This amendment lowers the minimum grade requirements applicable to export shipments of fresh Temple oranges, Murcott Honey oranges, tangerines, and tangelos grown in the production area in Florida. Less restrictive requirements on

export shipments of these varieties of citrus fruit are necessary to satisfy the current and prospective export demand for such fruit. The amended regulation recognizes the quality of much of the Temple oranges, Murcott Honey oranges, tangerines, and tangelos remaining for export shipment.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of exports of Temple oranges, Murcott Honey oranges, tangerines, and tangelos, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) Less restrictive grade limitations on the exportation of Temple oranges, Murcott Honey oranges, tangerines, and tangelos are consistent with the available supply of and demand for such fruits by the major export market outlets. The recommended grade regulations are necessary to insure a supply of good quality fruit and to promote expansion of the export markets.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the exportation of Temple oranges, Murcott Honey oranges, tangerines, and tangelos grown in Florida.

Order. In § 905.554 (Export Regulation 23; 38 FR 25665, 28063; 39 FR 3812) the provisions of paragraphs (b)(5), (b)(7), (b)(15), and (b)(17) are amended to read as follows:

§ 905.554 Export Regulation 23.

(a) * * *

(b) * * *

(5) Any Temple oranges, grown in the production area, which do not grade at least U.S. No. 2;

* * * * *

(7) Any Murcott Honey oranges, grown in the production area, which do not grade at least U.S. No. 2 Russet;

* * * * *

(15) Any tangerines, grown in the production area, which do not grade at least U.S. No. 2;

* * * * *

(17) Any tangelos, grown in the production area, which do not grade at least U.S. No. 2;

* * * * *

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

Dated: March 28, 1974, to become effective April 1, 1974.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74–7625 Filed 4–2–74;8:45 am]

[Tangerine Reg. 45, Amdt. 5]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Amendment of Grade and Size Regulations

This amendment lowers the minimum grade requirement applicable to fresh shipments of tangerines, grown in the production area in Florida to U.S. No. 2. The amendment also lowers the minimum diameter requirement for such shipments to 2 2/16 inches. The specification of such lower minimum grade and size for Florida tangerines is necessary to satisfy current and prospective demand for such tangerines. The amended regulations recognize the quality of much of the tangerines remaining for fresh shipment.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) Less restrictive grade and size limitations on fresh shipments of tangerines are consistent with the external appearance and remaining supply of smaller size tangerines in the production area and the current and prospective demand for such fruit by fresh market outlets.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of tangerines grown in Florida.

Order. The provisions of paragraph (b)(1) and (b)(2) of § 905.552 (Tangerine Regulation 45; 38 FR 25665, 28063, 31414, 34454, 34986), are amended to read as follows:

§ 905.552 Tangerine Regulation 45.

* * * * *

(b) * * *

(1) Any tangerines, grown in the production area, which do not grade at least U.S. No. 2; or

(2) Any tangerines, grown in the production area, which are of a size smaller than 2 2/16 inches in diameter, except that a tolerance for tangerines smaller than such minimum diameter shall be permitted as specified in § 51.1818 of the United States Standards for Florida Tangerines.

* * * * *

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

Dated: March 28, 1974, to become effective April 1, 1974.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74–7626 Filed 4–2–74;8:45 am]

[Tangelo Reg. 45, Amdt. 5]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Amendment of Grade Regulation

This amendment lowers the minimum grade requirement applicable to fresh shipments of tangelos, grown in the production area in Florida, to U.S. No. 2. The specification of such lower minimum grade for Florida tangelos is necessary to satisfy the current and prospective demand for such fruit. The amended regulation recognizes the quality of much of the tangelos remaining for fresh shipment.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangelos, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) Less restrictive grade limitations on fresh shipments of tangelos are consistent with the external appearance and remaining supply of tangelos in the production area and the current and prospective demand for such fruit by fresh market outlets.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, en-

gage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of tangelos grown in Florida.

Order. In § 905.553 (Tangelo Regulation 45; 38 FR 25665, 28063, 31414, 34454, 34986) paragraph (b)(1) is amended to read as follows:

§ 905.553 Tangelo Regulation 45.

* * * * *

(b) * * *

(1) Any tangelos, grown in the production area, which do not grade at least U.S. No. 2; or

* * * * *

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

Dated: March 28, 1974; to become effective April 1, 1974.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Servcie.

[FR Doc.74-7627 Filed 4-2-74;8:45 am]

[Orange Reg. 72, Amdt. 7]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Amendment of Grade Regulations

This amendment lowers the minimum grade requirements applicable to fresh shipments of Temple and Murcott Honey oranges, grown in the production area in Florida, to U.S. No. 2 and U.S. No. 2 Russet, respectively. The specification of such lower minimum grades for Florida Temple and Murcott Honey oranges is necessary to satisfy the current and prospective demand for such oranges. The amended regulation recognizes the quality of much of the Temple and Murcott Honey oranges remaining for fresh shipment.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agriculture Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of Temple and Murcott Honey oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) Less restrictive grade limitation on fresh shipments of Temple oranges is consistent with the available supply of and current and prospective demand for Temple oranges by fresh market outlets. The minimum grade requirement specified for Murcott Honey oranges is consistent with the external appearance and remaining supply for Murcott Honey oranges and current and prospective demand for such fruit by fresh market outlets.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of Temple and Murcott Honey oranges grown in Florida.

Order. The provisions of paragraph (b)(5) and (b)(7) of § 905.550 (Orange Regulation 72; 38 FR 25665, 28063, 31414, 34454, 34986; 39 FR 3812, 6605), are amended to read as follows:

§ 905.550 Orange Regulation 72.

* * * * *

(b) * * *

(5) Any Temple oranges, grown in the production area, which do not grade at least U.S. No. 2;

* * * * *

(7) Any Murcott Honey oranges, grown in the production area, which do not grade at least U.S. No. 2 Russet;

* * * * *

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

Dated: March 28, 1974, to become effective April 1, 1974.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-7628 Filed 4-2-74;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Loan and Purchase Regs., 1974-Crop Rice Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1974-Crop Rice Loan and Purchase Program

On October 24, 1973, the U.S. Department of Agriculture announced that the national average loan and purchase level for the 1974-crop rice would be $6.23 per hundredweight. Preliminary value factors were announced February 22, 1974, with increases for all classes of rice. Value factors, as established, reflect the previously announced average loan and purchase rate. Therefore, it is found and determined that compliance with the notice of proposed rulemaking procedure would be impracticable and contrary to the public interest. The General Regulations Governing Price Support for the 1970 and Subsequent Crops published at 35 FR 7363 and 7281 and any amendments thereto, and the 1970 and Subsequent Crops Rice Loan and Purchase Regulations published at 35 FR 8443 and 8873 and any amendments to such regulations published, are further supplemented for the 1974-crop rice. The material previously appearing in this subpart in §§ 1421.325 through 1421.328 remains in full force and effect as to the crop to which it was applicable.

AUTHORITY: Sec. 4, 62 Stat. 1070, as amended; (15 U.S.C. 714b). Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 62 Stat. 1051, as amended, 1054, sec. 302, 72 Stat. 988; (15 U.S.C. 714c, 7 U.S.C. 1421, 1441).

§ 1421.325 Purpose.

This subpart contains additional program provisions which, together with the applicable provisions of the regulations specified in § 1421.300 of the 1970 and Subsequent Crops Rice Loan and Purchase Program Regulations and any amendments thereto, apply to loans and purchases for the 1974-crop rice.

§ 1421.326 Availability.

(a) *Loans*. Producer must request a loan on 1974-crop eligible rice on or before March 31, 1975.

(b) *Purchases*. Producers desiring to offer eligible rice not under loan for purchase must execute and deliver to the county ASCS office prior to April 30, 1975, a purchase agreement (Form CCC-614) indicating the approximate quantity of rice they will sell to CCC.

§ 1421.327 Maturity of loans.

Unless demand is made earlier, loans on rice will mature on April 30, 1975.

§ 1421.328 Loan and purchase rates.

(a) *Farm-storage loans*. The loan rate for farm-storage rice shall be $6.23 per hundredweight for any class. The settlement rate shall be the applicable basic rate specified in paragraph (c) of this section, adjusted in accordance with the provision of this section and §§ 1421.310 and 1421.23.

(b) *Warehouse-storage loans*. The loan rate for loans stored, modified-commingled and identity-preserved in an approved warehouse shall be the applicable basic rate specified in paragraph (c) of this section adjusted as provided in paragraphs (e) and (f) of this section. The rate for loans on rice stored commingled in an approved warehouse and for settlement for modified-commingled and identity-preserved loans and purchases shall be the applicable basic rate specified in paragraph (c) of this section, adjusted in accordance with the provisions of this section and §§ 1421.310 and 1421.23.

(c) *Basic rates.* The basic rate per 100 pounds of rice shall be computed as follows: Multiply the yield (in pounds per hundredweight) of whole kernels by the applicable value factor for whole kernels (as shown in the table below according to class) and round the result to the nearest hundredth. Similarly, multiply the difference between the total yield and the whole kernels yield (in pounds per hundredweight) by the applicable value factor for broken rice and round the result to the nearest hundredth. Add the results (as rounded) of these two computations to obtain the basic loan or purchase rate per 100 pounds of rice and express such rate in dollars and cents.

VALUE FACTORS FOR WHOLE KERNELS AND BROKEN RICE [1]

Rough rice class	Whole kernels	Broken rice
	(*Cents per pound*)	
Long grains	10.47	5.10
Medium grains	9.72	5.10
Short grains	9.72	5.10

[1] These value factors may be changed. Such changes, if any, will be made by an amendment to this section issued shortly after Aug. 1, 1974.

(d) *Premium.* The basic rate determined under paragraph (c) of this section shall be adjusted by the following premium:

	Cents per 100 lbs
Grade U.S. No. 1	5

(e) *Discounts*—(1) *Grade.* The basic rate determined under paragraph (c) of this section shall be adjusted for grades below U.S. No. 2 by the following discounts:

	Cents per 100 lbs
Grade U.S. No. 3	15
Grade U.S. No. 4	30
Grade U.S. No. 5	50

(2) *Smut damage.* The rate for rice evidencing smut damage shall be further adjusted by the following discounts:

Percent smut damage	*Cents per 100 lbs*
Trace	0
0.1 to 1.0	5
1.1 to 2.0	10
2.1 to 3.0	15
3.1 and over	25

(f) *Location differentials.* For rice produced in the areas specified below discounts for location (to adjust for transportation costs of moving the rice to an area where competitive milling facilities are available) shall be applied to the basic rate determined under paragraph (c) of this section and shall be in addition to any adjustment under paragraphs (d) and (e) of this section. *Provided, however,* That if such rice is transported and stored in a rice producing area where no location differential is applicable, no discount for location shall be applied.

DIFFERENTIAL TABLE

Area:	*Discount per 100 lbs.*
Imperial County, California, and adjacent counties in Arizona and California	$1.44
State of Florida	1.45
States of North Carolina and South Carolina	1.37
Counties of Marion, Pike, and St. Charles, Missouri	0.93
Counties of Lafayette, Little River, and Miller, Arkansas; Bowie, Texas; McCurtain, Oklahoma; and Bossier Parish, Louisiana	0.20

Effective date: April 3, 1974.

Signed at Washington, D.C., on March 28, 1974.

GLENN A. WEIR,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.74-7624 Filed 4-2-74;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. IAA-404]

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

Repeal of Requirement for Certain Fees and Assessments for Investment Advisers

The Securities and Exchange Commission announced today the repeal of paragraphs (b), (c), (d) and (e) of Rule 203-3 under the Investment Advisers Act of 1940 [17 CFR 275.203-3 (b), (c), (d), (e)]. Paragraph (f) of the Rule [275.203-3(f)] is redesignated as paragraph (b) and the remainder of the Rule remains unchanged.

Paragraph (b) of Rule 203-3 provided that every registered investment adviser under the Act should pay a $100 annual assessment to the Commission while its registration was effective. Paragraph (c) of the Rule provided that any registered investment adviser who filed a notice of withdrawal on or before June 30 of any year should pay one-half the annual assessment for that year, while paragraph (d) of the Rule provided that any adviser who filed a notice of withdrawal after June 30 should pay the full assessment. Paragraph (e) of the Rule provided that any adviser who failed to pay the assessment when due would be required to pay a later payment fee of $100 to defray additional costs resulting from such failure.

This action was taken following the Commission's consideration of the recent decisions of the United States Supreme Court in National Cable Television Association Inc. v. United States, ____ U.S. ____, 42 U.S.L.W. 4306 (March 4, 1974), and Federal Power Commission v. New England Power Company, ____ U.S. ____, 42 U.S.L.W. 4308 (March 4, 1974). These decisions considered the validity of certain fees imposed by other Federal agencies pursuant to the Independent Offices Appropriations Act of 1952, 31 U.S.C. 483a. In view of the Supreme Court's decisions, the Commission is undertaking a review of all fees imposed by it pursuant to the authority of that Act.

Commission action. Pursuant to the authority granted it in sections 203 and 211 of the Investment Advisers Act of 1940, the Securities and Exchange Commission hereby revises § 275.303-3 of Chapter II of Title 17 of the Code of Federal Regulations by deleting paragraphs (b), (c), (d) and (e) thereunder and by redesignating paragraph (f) thereunder as paragraph (b). As so revised, § 275.203-3 reads as follows:

§ 275.303-3 Fees for registrants and applicants.

* * * * *

(b) All payments of fees shall be made in cash, certified check, personal check or by United States Postal Money Orders, bank cashier's check or bank money order payable to the Securities and Exchange Commission, omitting the name and title of any official of the Commission.

(Secs. 203, 211, 54 Stat. 850, 855, sec. 1(16) 74 Stat. 201, secs 2-5, 14, 74 Stat. 880, 885, sec. 24, 84 Stat. 1430 (15 U.S.C. 80b-3, 80b-11))

The Commission finds that the foregoing action relieves a present burden on the public and is necessary to comply with a decision of the United States Supreme Court which struck down previous authority under which the aforementioned rules were adopted, and consequently, notice and procedures under 5 U.S.C. 553 would be impracticable and contrary to public interest. Accordingly, the foregoing action is effective immediately.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Senior Recording Secretary.

MARCH 29, 1974.

[FR Doc.74-7694 Filed 4-2-74;8:45 am]

Title 45—Public Welfare

CHAPTER X—OFFICE OF ECONOMIC OPPORTUNITY

PART 1069—COMMUNITY ACTION PROGRAM GRANTEE PERSONNEL MANAGEMENT

Increased Reimbursement for Employee Mileage

Background. Recently the General Services Administration determined that 11 cents per mile does not adequately reimburse an employee for the costs incurred in operating a privately owned automobile and, as a consequence, Federal Travel Regulations were changed to allow 12 cents per mile. As OEO grantees and their delegate agencies are required by OEO regulations to follow the Federal Travel Regulations they may now adopt this higher mileage rate.

(Sec. 602(n), 78 Stat. 530; 42 U.S.C. 2942)

In 45 CFR Chapter X, Part 1069 is amended by revising § 1069.3-4(2) as follows:

1. Delete "11 cents" and insert "12 cents."

ALVIN J. ARNETT,
Director.

[FR Doc.74-7784 Filed 4-2-74;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY OFFICE

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Allocation of Crude Oil; Special Rule No. 1

On March 6, 1974, the Federal Energy Office published a notice of proposed rulemaking with respect to a revision of the provisions in Subpart C of Part 211 governing the allocation of crude oil (39 FR 8633). The comment period for that rulemaking ended March 20, 1974. The first allocation quarter under the proposed regulations was to be the three-month period May 1, 1974 through July 31, 1974.

In response to the notice, FEO received over 50 comments. These comments raised numerous problems with respect to the proposed allocation program. Due to the complexity of these problems and the difficulties of devising a new allocation program that resolves them in the most equitable manner, the FEO is not prepared to initiate a revised program effective May 1, 1974. Nearly 30 days lead time would be required for FEO to develop the forms and obtain and analyze the information which the refiners would have to submit. There is not adequate time to accomplish this process between now and the May 1 startup date.

At the same time, FEO does not consider it feasible to initiate the second crude oil sales period under the existing regulations since FEO anticipates that a revised crude oil program can be ready for implementation on June 1, 1974. Consequently, FEO is hereby amending Subpart C of Part 211 by adding a Special Rule No. 1 in an Appendix to Subpart C which suspends the second crude oil sales period until further notice and establishes a special rule for the allocation of crude during May, 1974. FEO recognizes the difficulties inherent in extending a refiner's buy/sell position for the first crude oil sales period on a pro-rated basis for May, 1974. However, the difficulties associated with initiating the second crude oil sales period and then terminating it at the end of May are even greater.

Thus, Special Rule No. 1 in FEO's judgment is the best course of action to be followed pending implementation of a new crude oil program.

Special Rule No. 1 provides that refiner-sellers and refiner-buyers during the first crude oil sales period will continue in such capacities for May, 1974. Refiner-sellers and refiner-buyers which entered into contracts prior to April 1, 1974 pursuant to the first crude oil sales period will continue those supplier/purchaser relationships during May, 1974, with the refiner-sellers selling to such refiner-buyer a volume of crude oil equal to 31/89 of the total volume of crude oil sold under such contracts. Refiner-sellers to the extent that they did not sell the total quantity of crude oil which they were obligated to sell in the first crude oil sales period may be required to sell up to 31/89 of such unsold quantity of crude oil. Refiner-buyers which did not purchase the total volume of crude oil which they were entitled to purchase under the first crude oil sales period shall be eligible to purchase a volume of crude oil equal to 31/89 of such volume not purchased. Special Rule No. 1 provides dates in April, 1974 by which contracts for the sale of crude oil pursuant to Special Rule No. 1 are to be executed or by which the assistance of FEO must be solicited.

FEO has determined that extending the supplier/purchaser relationships and sales volumes required under the first buy-sell list is a rational basis upon which to allocate crude oil for the month of May. The relative positions of most refiners, vis-a-vis the national supply to capacity average, should not change dramatically when measured on a February–May basis as compared with February–April. FEO recognizes, however, that unusual circumstances may affect individual companies such that they may have experienced a dramatic change in their crude oil supply situation since the original buy-sell list was published. FEO will entertain requests for exceptions where the effect of extending the first quarter buy-sell relationships would work a severe hardship due to any such dramatic shifts in levels of crude availability among individual refiners.

The supplier/purchaser relationships established pursuant to § 211.64 and the refinery yield control program of § 211.71 are not affected by Special Rule No. 1. The provisions of § 211.65(1) will apply in the same manner during May, 1974 with respect to the second crude oil sales period as was provided for imports during the first crude oil sales period. Thus, imports of crude oil by a refiner during May, 1974 in excess of the pro-rated amounts of domestic and imported crude oil estimated by a refiner to be run during the first crude oil sales period shall not subject the refiner to any increase in the amount of crude oil to be allocated in the next crude oil sales period.

Because the purpose of Special Rule No. 1 is to provide immediate guidance and information with respect to the allocation of crude oil for May, 1974 (prior to the implementation of a revised crude oil allocation program), the Federal Energy Office finds that normal rulemaking procedure is impracticable and that a good cause eixsts for making these amendments effective in less than 30 days.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, E.O. 11748, 38 F.R. 33575; Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27 E.O. 11730, 38 F.R. 19345; Cost of Living Council Order No. 47, 39 FR 24)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations is amended as set forth below, effective immediately.

Issued in Washington, D.C. April 1, 1974.

WILLIAM N. WALKER,
General Counsel,
Federal Energy Office.

Subpart C is amended by adding an Appendix with a Special Rule No. 1 to read as follows:

APPENDIX—SPECIAL RULE NO. 1

1. *Scope.* This special rule applies to all refiner-buyers and refiner-sellers during the crude oil sales period commencing February 1, 1974. It does not alter the supplier/purchaser relationships established pursuant to § 211.64 or the refinery yield control program under § 211.71.

2. *Purpose.* Notwithstanding the provisions of § 211.65-66 this special rule suspends until further notice the crude oil sales period which would otherwise commence May 1, 1974, and establishes a new rule for allocation of crude oil at the refinery level during the month of May, 1974.

3. *Special allocation of rule for May 1974.* For the month of May, 1974 allocation of crude oil among refiners shall be made as follows:

(a) Each refiner-seller and refiner-buyer as determined for the crude oil sales period commencing February 1, 1974 shall continue in such capacity.

(b) Each refiner-seller shall sell to each refiner-buyer to which sales of crude oil were made by the refiner-seller (under contracts entered into prior to April 1, 1974) pursuant to the crude oil sales period commencing February 1, 1974), a volume of crude oil equal to 31/89 of the total volume of crude oil sold to that refiner-buyer by that refiner-seller.

(c) Each refiner-seller shall, if and to the extent directed by the FEO pursuant to pargraph (h), sell to refiner-buyers specified by the FEO a volume of crude oil equal to 31/89 of the difference between (1) the total volume of crude oil which such refiner-seller was obligated to sell in the crude oil sales period commencing February 1, 1974, and (2) the total volume of crude oil so sold in such period by such refiner-seller pursuant to contracts entered into prior to April 1, 1974.

(d) Each refiner-buyer which did not purchase the total volume of crude oil which it was entitled to purchase in the crude oil sales period commencing February 1, 1974, shall be eligible to purchase from refiner-sellers (to the extent specified in paragraph (c) above) a volume of crude oil equal to 31/89 of the difference between (1) the total volume of crude oil which it was so entitled to purchase and (2) the total volume of crude oil purchased by such refiner-buyer in such crude oil sales period. Each refiner-buyer which desires to purchase crude oil pursuant to this paragraph shall request FEO prior to April 10, 1974, to direct the sale to such refiner-buyer of a specified volume of crude oil. Such request shall be accompanied by a certified statement setting forth such refiner-buyer's basis for being entitled to purchase such volume of crude oil. Upon such a request, the FEO may direct a refiner-seller or refiner-sellers to sell crude oil to such a refiner-buyer.

(e) Prior to April 10, 1974, each refiner-seller shall notify each refiner-buyer of the volume of crude oil to be sold to such refiner-

buyer by the refiner-seller pursuant to paragraph (b) of this rule.

(f) Prior to April 15, 1974, refiner-sellers and refiner-buyers shall enter into sales contracts for the delivery and purchase of crude oil pursuant to paragraph (b) of this rule.

(g) Any refiner-buyer which is unable to negotiate a contract prior to April 15, 1974 to purchase crude oil pursuant to paragraph (b) of this rule may request the FEO, prior to April 20, 1974, to direct a refiner-seller or refiner-sellers to sell an appropriate amount of an acceptable type of crude oil to such refiner-buyer. Upon such a request, the FEO may so direct the refiner-seller or refiner-sellers.

(h) The provisions of § 211.65(a), (b), (c) and (k) are applicable to all sales made pursuant to this rule. The provisions of § 211.65(1) apply in the same manner during the month of May, 1974 with respect to the second crude oil sales period as was provided for imports during the first crude oil sales period.

(i) The provisions of Subpart C of Part 211 (including but not limited to the procedures and reporting requirements of § 211.66) shall remain in full force and effect except as expressly modified by the provisions of this rule.

[FR Doc.74-7824 Filed 4-1-74;5:01 pm]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 74-224]

PART 528—NONDISCRIMINATION IN LENDING

Data on Applicants

MARCH 22, 1974.

Under section 808(d) of the Civil Rights Act of 1968, Federal agencies, including the Federal Home Loan Bank Board, are required to administer their programs and activities relating to housing and urban development in a manner affirmatively to further fair housing. Section 805 of the Act prohibits member institutions and other lenders from discriminating on the basis of race, color, religion, or national origin against any person applying for a loan or other financial assistance for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling. This regulation is intended as a means of providing information to the Board that will enable it to gauge compliance with the Act.

On January 13, 1972 the Federal Home Loan Bank Board by Resolution No. 72-50 (37 FR 811) proposed to amend the Regulations for the Federal Home Loan Bank System (12 CFR Chapter V, Subchapter B) by adding a new Part 528 thereto relating to nondiscrimination requirements. Among the provisions proposed to be added to implement the Board's responsibilities under title VIII of the Civil Rights Act of 1968 was § 528.6 which would have required member institutions to request that every applicant fill in a form indicating the applicant's race or ethnic descent at the time he or she submits an application for a loan or other service covered by title VIII. In the case of a denial of an application, the member institution would have been required to fill in a second part of the form indicating the date of denial and the reasons therefor. The member institution would also have been required by the proposed regulation to maintain a copy of the form—whether an application was approved or denied—for a specified period of time.

On April 21, 1972, by Resolution No. 72-476 (37 FR 8436, 8865), the Federal Home Loan Bank Board adopted the other provisions of the proposed part 528, to be effective May 1, 1972, but postponed final action on section 528.6 pending discussion, and possible coordination of a similar recordkeeping requirement to be implemented by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency. Since that time the Board has met with these other agencies with the result that an agreement has been reached that all of the agencies will institute, on a trial basis, a racial recordkeeping requirement prior to imposing the requirement nationwide. The trial period will be six months, and the requirement will only apply to institutions located in a sample of eighteen selected Standard Metropolitan Statistical Areas (SMSA's) as defined by the Department of Commerce. The four Federal regulatory agencies have developed three distinct data forms. Each one of these forms will be used in six cities; all financial institutions in a given city (regardless of which Federal agency is responsible for regulating each institution) will utilize the same form. Analysis and processing of the reports submitted by the lending institutions will be done by the agency responsible for the particular institution. The period chosen for the trial is June 1, 1974 through November 30, 1974. Subsequently, the results of the various data collection procedures will be evaluated and each agency involved will make a determination as to whether and in what manner the collection and reporting of data shall be continued.

The Board considers it desirable to amend part 528 by adding a new § 528.6 thereto. Copies of the appropriate form will be distributed to the institutions subject to this amendment. Form 'A' differs from the form which the Board proposed in January 1972 insofar as Part II of the earlier proposed form (reasons for disapproval) has been eliminated. The member institution would be required to fill in an application number and the census tract (or other census district or division) in which the property is located. The applicant would fill in the remainder of the form, providing his or her race or ethnic descent, age, sex, and marital status. Language has been added to indicate that completion of the form by the applicant is voluntary. A report summarizing the data collected on the forms is required. Form 'B' differs from Form 'A' in that the lender must provide the reason for disapproval of the application, the zip code, instead of the census tract of the property is required, and the applicant's age, sex, and marital status are not required to be provided. A report summarizing the data collected on the forms is required. Form 'C' differs from Form 'A' in that the lender must provide the reasons for disapproval of the application, and, rather than submitting a report, the completed forms are returned to Washington for processing. The applicant must provide his or her gross combined annual income, years at his or her present occupation, combined outstanding debts, combined monthly debt payments, combined assets, the amount of the loan requested, the purchase price of the subject property and whether it will be owner-occupied.

The Federal Home Loan Bank Board, in Resolution No. 72-50, dated January 13, 1972, proposed to amend the Regulations for the Federal Home Loan Bank System (12 CFR, Chapter V, Subchapter B) by adding a new Part 528 thereto relating to nondiscrimination requirements. Notice of such proposed rulemaking was duly published in the FEDERAL REGISTER on January 19, 1972 (37 FR 811), with an invitation to interested persons to submit written comments. On April 21, 1972, by Resolution 72-476 (37 FR 8436, 8865), The Federal Home Board Loan Bank Board adopted the other provisions of the proposed part 528, to be effective May 1, 1972, but postponed final action on § 528.6. On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board hereby amends Part 528 by adding a new section, § 528.6, as set forth below. Since affording notice and public procedure on the above amendment would delay it from becoming effective for a period of time, and since this amendment in substantially the same form has already been subject to comment, and because of the experimental and temporary nature of the requirement, the Board hereby finds that notice and public procedure thereon are impracticable, unnecessary and contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and the Board hereby provides that such amendment shall become effective as of June 1, 1974.

§ 528.6 Data on loan applicants.

(a) *Recordkeeping requirements.* Each member institution shall, to the extent prescribed herein, require that each application submitted to it for a loan or other service described in § 528.2 with respect to real property located in a standard metropolitan statistical area, defined by the Department of Commerce and listed in paragraph (b), (c), or (d) of this section, shall be accompanied by a "Fair Housing Information Statement," as prescribed by the Board, which shall be separate from the application. Each applicant shall be requested to sign and complete the applicant's portion of the Statement at the time the application is made.

(b) *Form A*—(1) *Areas of applicability.* The recordkeeping and reporting requirements of this paragraph shall apply

with respect to each application for a loan or other service relating to a dwelling, which application is made to an office of a member institution located in one of the following standard metropolitan statistical areas:

Atlanta, Georgia
Buffalo, New York
Chicago, Illinois
San Antonio, Texas
San Diego, California
Washington, D.C.—Maryland—Virginia

(2) *Requirements.* The Statement shall be completed in duplicate by the applicant, except that the census tract designation for the location of the property shall be supplied by the member institution, and the copy shall be given to the applicant at the time the application is made or as promptly thereafter as practicable. The original shall be retained by the member institution for at least three years following the date of the application whether or not the loan is approved. If the application is approved, the original retained by the member institution shall be placed in its file on the loan. If the application is denied, the original retained by the member institution, along with the application and any supporting materials, other than materials which belong to the applicant and which are returned to the applicant at the applicant's request, shall be placed in a file of rejected applications and retained for the period specified above. The material so retained shall include a specific statement of the reasons for denial of the application.

(3) *Reporting.* Each member institution subject to this paragraph shall report, in such manner and on such forms as the Board may prescribe, data contained in "Fair Housing Information Statements" and in other materials relating to applicants subject to this part. Such reports shall be filed within 30 business days of the close of the reporting period. Such information shall be available to the public in such manner as will further the purpose of this part without resulting in injury to a private interest intended to be protected by law.

(c) *Form B*—(1) *Areas of applicability.* The recordkeeping and reporting requirements of this paragraph shall apply with respect to each application for a loan or other service relating to a dwelling, which application is made to an office of a member institution located in one of the following standard metropolitan statistical areas:

Baltimore, Maryland
Galveston–Texas City, Texas
Jackson, Mississippi
Jersey City, New Jersey
Tampa–St. Petersburg, Florida
Vallejo–Fairfield–Napa, California

(2) *Requirements.* The Statement shall be completed in duplicate. The original shall be retained by the member institution for at least three years following the date of the application whether or not the application is approved. If the application is approved, both copies shall be placed in the member institution's file on the loan. If the application is denied, the member institution shall complete Part II of the Statement, shall provide the applicant with a completed copy of Parts I and II of the Statement and shall retain for three years the original copy of the Statement as part of the written application. The member institution shall also retain for the period specified above any other documents obtained in connection with the application, except for documents which are the property of the applicant and which the applicant requests be returned.

(3) *Reporting.* Each member institution subject to this paragraph shall report, in such manner and on such forms as the Board may prescribe, data contained in "Fair Housing Information Statements" and in other materials relating to applicants subject to this part. Such reports shall be filed within 30 business days of the close of the reporting period. Such information shall be available to the public in such manner as will further the purpose of this part without resulting in injury to a public or private interest intended to be protected by law.

(d) *Form C*—(1) *Area of applicability.* The recordkeeping and reporting requirements of this paragraph shall apply with respect to each application for a loan for the purpose of purchasing or constructing a dwelling, which application is made to an office of a member institution located in one of the following standard metropolitan statistical areas:

Bridgeport, Connecticut
Cleveland, Ohio
Memphis, Tennessee
Montgomery, Alabama
Topeka, Kansas
Tucson, Arizona

(2) *Requirement.* Each member institution shall require every person who meets with an officer or employee of the institution for the purpose of discussing the prospects for making formal written application, or for the purpose of making formal written application, for a loan for the purpose of purchasing or constructing a dwelling to complete a copy of Parts I and II of the Form. The member institution shall provide the census tract designation for the location of the property and, if the application is denied or if a written loan application is not submitted by the applicant within four weeks subsequent to the completion of Parts I and II, shall complete Part III of the Form.

(3) *Reporting.* Each member institution subject to this shall report, in such manner and on such forms as the Board may prescribe, data contained in "Fair Housing Information Statements" and in other materials relating to applicants subject to this part. Such reports shall be filed within 30 business days of the close of the reporting period and such reports shall include all completed Statements. Such information shall be available to the public in such manner as will further the purpose of this part without resulting in injury to a public or private interest intended to be protected by law.

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary.

FORM A

FAIR HOUSING INFORMATION STATEMENT
Federal Home Loan Bank Board
Washington, D. C. 20552

TO BE COMPLETED BY LENDER

Name and Address of Association	001	Docket No.	Application Granted 002	Application Denied 003	Application No.

004 State	County 005	SMSA	006 Census Tract

TO PROTECT THE CIVIL RIGHTS OF ALL BORROWERS IN ACCORDANCE WITH FEDERAL LAW, THE FEDERAL GOVERNMENT REQUESTS THAT YOU PROVIDE THE FOLLOWING INFORMATION WHICH MAY BE REVIEWED BY GOVERNMENT AUTHORITIES TO ASSURE FAIR TREATMENT OF ALL LOAN APPLICANTS.

This lending institution does not consider race, color, religion, or national origin in determining whether or not you should receive a loan. It reviews a variety of factors when considering a loan application. These include: (1) the income of the applicant and other family members; (2) the appraised value of the property; and (3) credit references.

If your loan application is disapproved, you are entitled to have the reasons explained to you. If you have cause to believe that you have been denied a loan because of race, color, religion, or national origin, you may discuss the matter with the management of this lending institution, and you have the right to file a complaint, containing relevant facts, including dates, and your name, with:

Assistant Secretary for Equal Opportunity
Department of Housing and Urban Development
Washington, D. C. 20410

or your local department of Housing and Urban Development or Federal Housing Administration Office, or you may take any other appropriate action provided by law. (Title 42, Section 3612, United States Code).

TO BE COMPLETED BY APPLICANT

TO THE APPLICANT: COMPLETION OF THIS FORM IS COMPLETELY VOLUNTARY.
If, after reading this form, you decline to supply this information, "X" this box 007 and sign your name at the end of this form.

Name of Applicant	Age	Sex		Marital Status			
		008	Male	010	Single	011	Married
		009	Female	012	Divorced	013	Widowed

Name of Spouse or Other Applicant	Age	Sex		Marital Status			
		014	Male	016	Single	017	Married
		015	Female	018	Divorced	019	Widowed

Please indicate your race or ethnic descent. If you fit into more than one category, please check the one which you believe best describes you. "Spanish Descent" includes persons of Puerto Rican, Cuban, Mexican and Central and South American descent.

Race or Ethnic Descent	Applicant		Spouse or Other Applicant	
American Indian	020		021	
Asian	022		023	
Black/Negro	024		025	
Spanish Descent	026		027	
White	028		029	
Other (Specify) _____	030		031	

Signature of Applicant → _____ Date _____

FHIS-A
March 1974

FORM B

FHIS - B

FEDERAL HOME LOAN BANK BOARD

FAIR HOUSING INFORMATION STATEMENT

Application Number _____

Amount of Loan Requested _____

Name of Applicant _____ Spouse's or Other Applicant's Name _____

Address of Property:

Street _____

City _____ State _____ Zip Code _____

TO PROTECT THE CIVIL RIGHTS OF ALL BORROWERS IN ACCORDANCE WITH FEDERAL LAW; THE FEDERAL GOVERNMENT REQUESTS THAT YOU PROVIDE THE FOLLOWING INFORMATION. IT WILL NOT BE CONSIDERED BY THIS LENDING INSTITUTION IN DECIDING WHETHER OR NOT TO MAKE A LOAN TO YOU, BUT IT MAY BE REVIEWED BY GOVERNMENT AUTHORITIES TO ASSURE FAIR TREATMENT OF ALL LOAN APPLICANTS.

This institution does not consider race, color, religion, or national origin in determining whether or not you should receive a loan.

Part I - To Be Completed by Applicant

YOUR COMPLETION OF THIS FORM IS COMPLETELY VOLUNTARY. IF YOU DECLINE TO FILL OUT THIS FORM, CHECK HERE ____ AND SIGN YOUR NAME AT THE END OF THIS FORM.

Please indicate race or ethnic descent:

	Applicant		Spouse or Other Applicant	
American Indian	_____	(I)	_____	(I)
Asian	_____	(A)	_____	(A)
Black/Negro	_____	(B)	_____	(B)
Spanish descent	_____	(S)	_____	(S)
White, non-Spanish	_____	(W)	_____	(W)
Other, specify	_____	(O)	_____	(O)

If you fit more than one category, please check the one which you believe best describes you. "Spanish descent" includes persons of Puerto Rican, Cuban, Mexican and Central and South American descent.

If you have reason to believe that you have been denied a loan because of race, color, religion, or national origin, you have the right to file a complaint, containing relevant facts, including dates and your name, with:

Assistant Secretary for Equal Opportunity
Department of Housing and Urban Development
Washington, D. C. 20410

or your local Department of Housing and Urban Development or Federal Housing Administration office, or you may take any other appropriate action provided by law.

Signature of Applicant

Signature of Spouse or Other Applicant

PART II

To be completed by the lending institution only if the application is disapproved:

Date of decision _____

Reasons for disapproval _____

Officer

FORM C FHIS - C

FEDERAL HOME LOAN BANK BOARD

FAIR HOUSING INFORMATION STATEMENT

Disposition:
(Circle the appropriate lettered box)

[A] Approved [B] Denied [C] N/A

FHLBB Docket No.....[ ][ ][ ][ ] - [L]
State.....[ ][ ]
SMSA.....[ ][ ][ ][ ]
Tract.....[ ][ ][ ][ ] . [ ][ ]
Loan Application No. _____

PART I: PERSONAL ECONOMIC DATA

Applicant's Name (last) (first) (middle)

Subject Property

Spouse's Name (last) (first) (middle)

Street Address

Address

City, State & Zip Code

City, State & Zip Code

For Items 1 through 8 circle the appropriate lettered box.)

1. Combined Gross Annual Income:

[A] $0 - 5,000 [B] $5,001 - 10,000 [C] $10,001 - 15,000 [D] $15,001 - 25,000
[E] Over $25,000

2. Years at Present Occupation:
(A. Applicant)

[A] Not employed [B] Less than 1 Year [C] 1 Year [D] 2 Years
[E] 3 - 5 Years [F] Over 5 Years

(B. Spouse)

[A] Not employed [B] Less than 1 Year [C] 1 Year [D] 2 Years
[E] 3 - 5 Years [F] Over 5 Years

3. Amount of Combined Outstanding Debts:

[A] $0 - 5,000 [B] $5,001 - 10,000 [C] $10,001 - 20,000 [D] $20,001 - 35,000
[E] Over $35,000

4. Combined Monthly Debt Payments:

[A] $0 - 100 [B] $101 - 200 [C] $201 - 300 [D] $301 - 500
[E] $501 - 800 [F] Over $800

5. Combined Assets:

[A] $0 - 5,000 [B] $5,001 - 10,000 [C] $10,001 - 20,000 [D] $20,001 - 30,000
[E] $30,001 - 60,000 [F] $60,001 - 100,000 [G] Over $100,000

6. Amount of Loan Requested:

[A] $0 - 2,500 [B] $2,501 - 5,000 [C] $5,001 - 10,000 [D] $10,001 - 15,000
[E] $15,001 - 25,000 [F] $25,001 - 35,000 [G] $35,001 - 45,000
[H] $45,001 - 60,000 [I] $60,001 - 75,000 [J] Over $75,000

7. Purchase Price of Subject Property:

[A] $0 - 5,000 [B] $5,001 - 10,000 [C] $10,001 - 20,000 [D] $20,001 - 30,000
[E] $30,001 - 50,000 [F] $50,001 - 75,000 [G] Over $75,000

8. Subject Property Will be Owner-Occupied:

[A] Yes [B] No

PART II: PERSONAL DESCRIPTIVE DATA

The Federal Government, not this institution asks you to provide the following information as part of its program to assure equal treatment of all citizens under the Civil Rights Act of 1968. You are advised that it is against the law for this institution to use your answers to deny you a loan.

1. Please circle the lettered box below which you believe best describes your ethnic identification: ("Spanish Descent" includes persons of Puerto Rican, Cuban, Mexican and Central and South American descent.)

[A] American Indian [B] Asian [C] Black/Negro [D] Spanish Descent
[E] White/Caucasian [F] Other

2. Marital Status: (circle the appropriate lettered box.)

[A] Single [B] Married [C] Divorced [D] Widowed

3. Sex: (circle the appropriate lettered box.)

[A] Male [B] Female

PART III: DENIAL OR FAILURE TO SUBMIT

(To be filled in by institution only if loan is denied or written application is not submitted.)

a. Date of denial by institution if written application has been submitted:

_____

b. Reasons for decision or failure to submit written application:

APPLICANT COMPLETED:

Part I [ ] Part II [ ] None [ ]

Signature of Applicant Date

OFFICER COMPLETED:

Part I [ ] Part II [ ] None [ ]

Signature of Interviewing Officer Date

Signature of Officer Completing Part III Date

[FR Doc.74-7544 Filed 4-1-74;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 209—ADMINISTRATIVE PROCEDURE

Permits for Activities in Navigable Waters or Ocean Waters

On May 10, 1973, the Department of the Army, acting through the Chief of Engineers, published proposed regulations, which superseded regulations published in 33 CFR 209.120 and 209.130 and served as interim guidance to all Corps of Engineers installations. These proposed regulations prescribed the policy, practice and procedure to be followed by all Corps of Engineers installations and activities in connection with applications for permits authorizing structures and work in or affecting navigable waters of the United States pursuant to the Rivers and Harbors Act of 1899 (33 U.S.C. 401 et seq.), the discharge of dredged or fill material into navigable waters pursuant to section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), and the transportation of dredged material for the purpose of dumping it into ocean waters pursuant to section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

The Department of the Army, acting through the Corps of Engineers, is publishing herewith the final regulations which prescribe the policies, practice and procedures to be followed in the processing of Department of the Army permits.

The public comment period for this regulation expired on 9 June 1973. This final regulation has been revised based on comments received from the general public, other Federal agencies, and Corps field offices as well as interpretative guidance received from recent judicial decisions. We wish to take this opportunity to express appreciation for these comments and suggestions.

The following analysis summarizes comments of particular significance which were received on the cited sections of the proposed regulations, and discusses the basis for the decisions which were made.

Section 209.120(c)(1). There was a comment that compliance with water quality standards is not required by section 401 of the Federal Water Pollution Control Act (33 U.S.C. 1341) (hereinafter referred to as FWPCA), and therefore deletion of the words "water quality standards" from the summary in paragraph (c)(1) of the provisions of section 401 requiring a State certification was recommended. The legislative history of the FWPCA was cited to support this position.

It is true that the main thrust of section 401 is on effluent limitations, and that general State water quality standards are not expressly included. However, the Conference substitute embodied in the final version of the law not only requires a State certification which sets forth "effluent limitations, and other limitations and monitoring requirements to insure compliance with sections 301, 302, 306 and 307" of the FWPCA, but also added language requiring certification of compliance with "any other appropriate requirement of State law which is set forth in the certification." This would include appropriate State water quality standards. Consequently we cannot agree to this recommended deletion.

Section 209.120(c)(5). On the recommendation of the Department of Commerce, we have rewritten this paragraph to better emphasize the role of the National Marine Fisheries Service under the Fish and Wildlife Coordination Act.

Section 209.120(c) (8) and (9). At the request of the Departments of Housing and Urban Development, and Commerce, respectively, two additional summary paragraphs have been added which recognize the interrelationship of this regulatory permit program with the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701, et seq.) and the Water Resources Planning Act (42 U.S.C. 1962, et seq.).

Section 209.120(d)(1). Several comments and questions were received concerning the different definitions which were assigned to the terms "navigable waters of the United States" and "navigable waters". In this regard, it is noted that the Corps regulatory authority under the River and Harbors Act of 1899 (33 U.S.C. 401 et seq.) speaks in terms of "navigable waters of the United States". This term has received the benefit of over 100 years of judicial definition and interpretation which has largely been based on the constitutional extent to which the authority of the United States can extend over the nation's waterways. Recognizing that the extent of Federal authority over the nation's waterways has been an evolutionary one and that recent judicial decisions have provided additional guidance and direction as to the scope and extent of this jurisdiction, the Corps recently undertook an extensive review of all of the judicial decisions in this area, and substantially revised and refined its administrative definition of this term to more accurately reflect and incorporate this judicial guidance. This revised definition, which was published in the FEDERAL REGISTER on September 9, 1972 (37 FR 18289) and has been subsequently included in the Code of Federal Regulations (33 CFR 209.260) asserts regulatory authority over many heretofore unregulated waterways, as well as establishing the geographical limits of this jurisdiction.

Section 404 of the FWPCA uses the term "navigable waters" which is later defined in the Act as "the waters of the United States." The Conference Report, in discussing this term, advises that this term is to be given the "broadest possible Constitutional interpretation unencumbered by agency determinations which have been made or may be made for administrative purposes." We feel that the guidance in interpreting the meaning of this term which has been offered by this Conference Report—to give it the broadest possible Constitutional interpretation—is the same as the basic premise from which the aforementioned judicial precedents have evolved. The extent of Federal regulatory jurisdiction must be limited to that which is Constitutionally permissible, and in this regard, we feel that we must adopt an administrative definition of this term which is soundly based on this premise and the judicial precedents which have reinforced it. Accordingly, we feel that in the administration of this regulatory program both terms should be treated synonymously.

Section 209.120(d)(3). The definition of "dredged material" has been revised to more accurately reflect the extent and type of activities which fall within the purview of this regulation.

Section 209.120(d)(4). Many comments expressed the concern that the definition of "fill material" was too restrictive in that it was limited only to the creation of fastland (e.g. land above the ordinary high water mark). The definition has been expanded to include planned elevation of lands beneath navigable waters.

Section 209.120(e)(1). This section has been expanded to include several additional types of activities for which Department of the Army authorization under the River and Harbor Act of 1899 will not be required. First, since this regulation requires an evaluation of the proposed plans for an entire residential development associated with the connection of an artificial canal to a navigable water of the United States including the the anticipated proliferation of numerous docks and piers in those canals (see paragraph (g)(11)), it is felt that subsequent individual authorization of docks, piers and similar structures are not necessary. In addition, the harbor line "Grandfather" clause, which appears in 33 CFR 209.150 (ER 1145-2-304) and which provides that a permit will not be required under Section 10 of the River & Harbor Act of 1899 for work commenced or completed before May 27, 1970, shoreward of established harbor lines, has been incorporated into this regulation. However, since the 1972 enactment of the FWPCA has superseded, in part, this harbor line policy, provision has been made to exempt the discharge of dredged or fill material from its coverage.

Section 209.120(e)(3). Clarifying language has been added to subparagraph (ii) of this section to cover cases such as Section 26A of the Tennessee Valley Authority Act which exempts those activities by the Tennessee Valley Authority from the authorization requirements of the River and Harbor Act of 1899. Clarifying language has also been added to subparagraph (iii) of this section to emphasize that while Federal agencies are not required to obtain water quality certifications pursuant to section 401(a)(6) of the FWPCA, they are still required to comply with substantive State, interstate, and local water quality standards and effluent limitations involving the discharge of pollutants in the design, construction, management, operation and maintenance of their facilities. This position is further reflected in Executive Order No. 11752, dated December 17, 1973, which is published in 38 FR 34793.

Section 209.120(g)(2). In response to comments concerning the treatment of non-Federal dredging projects which are not considered and coordinated with a Federal navigation project, provision has been made to treat such cases on an individual basis utilizing the normal evaluation and administrative procedures set forth in this regulation.

Section 209.120(g)(3). Numerous comments were received which interpreted this section on wetlands as an expansion of jurisdiction beyond those waters regarded as navigable waters of the United States. In response to these comments, it should be noted that this section prescribes the policy to be followed in evaluating proposed activities in or affecting those wetlands which are regarded as navigable waters of the United States.

At the suggestion of the Environmental Defense Fund, the Soil Conservation Service has been included with those Federal agencies which the District Engineer may consult in assessing the cumulative effect of a proposed activity on wetlands since that Agency's watershed projects often involve activities in wetlands.

Section 201.120(g)(4). Paragraph (ii) of this section has been revised to more accurately reflect the provisions of the 1967 Memorandum of Understanding between the Secretaries of the Interior and Army. Procedures for those activities which do not fall within the purview of this memorandum have been prescribed in §§ 209.120(i) and 209.120(p).

Section 209.120(g)(5). Additional clarifying language has been added to this section to reflect the requirements of section 401(a)(1) of the FWPCA that a water quality certification address both the construction and operation of the proposed activity.

Section 201.120(g)(6). At the request of the Department of the Interior, National Wilderness Areas, Parks, and Monuments, and the National Registry of Natural Landmarks have been added to those lists of items which will receive specific application of the policies on historic, scenic, and recreational values expressed in this section.

Section 209.120(g)(7). Clarifying language has been added to subparagraph (ii) of this section to indicate when the procedures outlined in Chapter III, § 327.19 of Title 36, Code of Federal Regulations, will be applied for floating structures for small recreational boats or other recreational purposes in lakes owned and operated by the Corps of Engineers in lieu of the procedures specified in this regulation.

Section 209.120(g)(8). At the request of the U.S. Coast Guard, the provision pertaining to lighting of fishing structures and appliances has been reinserted as subparagraph (ii) of this section.

Section 209.120(g)(11). In conformance with the policy expressed in paragraph (e)(1) that permits will not be required for docks, piers, and other similar structures in canals after the connection to a navigable water has been authorized, provision has been made in subparagraph (ii) of this section to require a proponent of canal work to include in his submission of proposed plans for the development a description of anticipated docks, piers and other similar structures which will be placed in the canal.

Section 209.120(g)(12). The policies and procedures governing unauthorized activities as expressed in the proposed regulation provided for the District Engineer, upon discovery of an unauthorized activity, to issue a cease and desist order and instruct the party involved to immediately file for a permit. In addition, and after these instructions were issued, the District Engineer also had the responsibility of recommending appropriate legal action to be taken against these parties. The case of U.S. v. Moretti, 478 F2d 418 (5th Cir. 1973) which was decided five days after publication of this proposed regulation, highlighted the problems which the Corps would experience in the enforcement of this regulatory program if these procedures were followed. Specifically, the Moretti case held that while a court has the authority to order appropriate action against unauthorized activities, including restoration of the area to its original condition, it cannot do so until the Corps of Engineers has fully processed and made a decision on a permit application for this unauthorized work. In reaching this decision, the Moretti court noted that the Corps regulations provide a party involved in an unauthorized activity with the right to apply for a permit after discovery of same.

The procedures involving unauthorized activities have been changed to reflect the rationale of the Moretti decision, and to avoid the obvious adverse impact which adherence to the originally proposed procedures would have on the enforcement of this regulatory program. These new procedures now provide for the District Engineer, upon discovery of an unauthorized activity, to issue a cease and desist order and to immediately commence an investigation of the unauthorized activity. Except in cases where the unauthorized activity was performed in nontidal waters prior to an administrative, judicial or legislative determination that the water is a navigable water of the United States, the District Engineer is not authorized to process or accept for process any permit application. Instead, he is now required to prepare a report to be forwarded to the Chief of Engineers which will contain an analysis of the data and information obtained during his investigation and will recommend appropriate civil and criminal action. Provision has also been made for direct referrals of cases to local U.S. Attorneys where there is intentional disregard of cease and desist orders issued for ongoing unauthorized activities or where the unauthorized activity is minor, has not had a significant impact on the environment, and would have encountered no opposition if a permit had been sought. All other cases requiring judicial action will continue to be processed through administrative channels to insure a coordinated and uniform enforcement effort.

Section 209.120(g)(14). At the suggestion of Consolidated Edison, the word "aerial," which qualified this section on power transmission lines, has been deleted in order that other types of transmission lines including those under water can be included within these policy provisions. A comment was also received which alleged that the minimum clearance requirements prescribed by this section were excessive. We have again reviewed these minimum clearances and feel that they are still appropriate.

Section 209.120(g)(17). Comments were received concerning the apparent duplication of effort which occurs when EPA is notified of a proposed action both during the public notice and 15 days before the intended issuance of a permit under section 404 of the FWPCA. This latter notification requirement is required by statute, and is made further necessary because the Corps of Engineers never operates on the assumption that a permit will be issued after an application is received. Instead, it evaluates the proposed work in light of all comments received, and may require alterations to the proposed plans as a condition to issuance of the permit. Thus, since the circumstances surrounding the final issuance of a permit, including the conditions under which the work will be performed, may be altogether different from the initial description of the work in the public notice, EPA must be afforded the additional opportunity to evaluate the final contemplated action in exercising its responsibilities under section 404 of the FWPCA.

The criteria for ocean dumping sites was published by EPA in the FEDERAL REGISTER on October 15, 1973 (38 FR 28621). When ultimately published in the Code of Federal Regulations they will be located in Title 40, Chapter 1, Part 220. As of this printing, EPA has not promulgated guidelines under section 404 of the FWPCA.

Section 209.120(h)(1). Several comments were received concerning the adequacy and possible changes to ENG Form 4345 (application form). The Corps is preparing a revised ENG Form 4345 which will reflect these comments.

Section 209.120(h)(2)(iii). Fees for permit application involving fill behind retaining structures will be required in accordance with this section.

Section 209.120(h)(2). At the suggestion of the Environmental Protection Agency and the Department of the Interior, a description of the location and dimensions of adjacent structures to the proposed activity will be included in the application to assist these agencies in their overall evaluation of the proposed activity. In addition, a further change in this section has been made to require an applicant to submit a list of all approvals required for the proposed activity including those for which approvals or denials have already been made.

Section 209.120(h)(a)(vi). Pursuant to the congressional intent expressed in 31 U.S.C. 483(a) that permit programs of this type be self-sustaining to the fullest extent possible, provision has been made for the assessment of expenses involved in the preparation of an environmental impact statement in those cases where these expenses will become substantial. However, in lieu of this procedure, the District Engineer is authorized to request the applicant to enter into a third party contract to obtain the necessary data for the preparation of an environmental impact statement. It should be emphasized that notwithstanding the expense which the applicant may incur as a result of the preparation of an environmental impact statement, there is no assurance that a permit will ultimately be issued.

Section 209.120(i)(1)(iv). Clarifying language has been inserted to cover those situations in which another Federal agency has the primary responsibility for authorizing or undertaking a proposed activity and has prepared an environmental impact statement which covers the portion of the activity for which a Corps of Engineers permit is sought.

Section 209.120(j)(1)(iv). At the requests of the Departments of the Interior and Commerce, and the Environmental Protection Agency, this subparagraph has been changed to provide more precise information in the public notice for review and evaluation purposes.

Section 209.120(1). Several comments were received which challenged the guidance on the extent of coverage of an environmental impact statement for a permit action as specified by this section. The requirements of this section follow the guidelines promulgated by the Council on Environmental Quality on 1 August 1973 (38 FR 20550–20562). In particular, note that § 1500.8(a) specifically requires consideration of the probable impact of the proposed action on the environment including secondary or indirect, as well as the primary and direct consequences of the proposed activity.

Section 209.120(p)(1). Clarifying language has been inserted which would authorize District Engineers to deny permit applications where required State or local certifications have been denied.

Section 209.120(p)(2). Changes have been made to this section which would authorize Division Engineers to issue permits over the unresolved objections of other Federal agencies upon completion of certain specified procedures. This approach is designed to further decentralize the permit evaluation and decision responsibilities and enable effective and expeditious resolution of Federal objections to proposed actions without encountering the often protracted procedures experienced in the automatic referral or cases to the headquarters' levels of the various Federal agencies. Division Engineers have not been authorized, by these changes, to disregard those procedures outlined in statutes and memoranda of understanding which cover particular types of situations, and those procedures must still be followed when the case arises.

Section 209.120(g). Several comments were received concerning the availability of EPA's enforcement authority under section 209 of the FWPCA and section 105 of the Marine Protection, Research and Sanctuaries Act of 1972. Incorporation of those enforcement provisions will be made in a separate regulation dealing with the Corps of Engineers enforcement program which will be published at a later date.

This regulation is effective on April 3, 1974.

Dated: April 1, 1974.

J. L. KELLY,
Brigadier General, USA,
Acting Director of Civil Works.

LIST OF COMMENTS ON REGULATIONS FOR PERMITS FOR ACTIVITIES IN NAVIGABLE WATERS OR OCEAN WATERS

1. Honorable Henry S. Reuss, Chairman, Conservation and Natural Resources Subcommittee, House of Representatives.
2. Department of Housing and Urban Development, Washington, D.C.
3. Department of Commerce, Washington, D.C.
4. Environmental Protection Agency, Washington, D.C.
5. House of Representatives, State of Washington, Spokane, Wash.
6. Miss Zeva L. Smith, San Francisco, Calif.
7. Save Our Bay Association, Berkeley, Calif.
8. Miss Virginia M. Matheny, Corte Madera, Calif.
9. Stone and Youngberg Investment Securities, San Francisco, Calif.
10. Ms. Shirley West, Corte Madera, Calif.
11. Mrs. Patricia Foncault, Redwood City, Calif.
12. Maryland Port Administration, Baltimore, Md.
13. U.S. Coast Guard, Washington, D.C.
14. Debevoise and Liberman, Washington, D.C.
15. Ms. Jeanne M. Lippay, San Francisco, Calif.
16. National Association of Manufacturers, New York, N.Y.
17. Edison Electric Institute, New York, N.Y.
18. American Electric Power Service Corp., New York, N.Y.
19. Transcontinental Gas Pipeline Corp., Houston, Tex.
20. American Land Title Association, Washington, D.C.
21. California Land Title Association, Sacramento, Calif.
22. Department of the Interior, Washington, D.C.
23. Texaco, Inc., Washington, D.C.
24. Pillsbury, Madison and Sutro, San Francisco, Calif.
25. Port of Corpus Christi, Corpus Christi, Tex.
26. Columbia Gas System Service Corp., Wilmington, Del.
27. Landels, Ripley, and Diamond, San Francisco, Calif.
28. Natural Resources Defense Council, Inc., Washington, D.C.
29. Florida Audubon Society, Maitland, Fla.
30. Environmental Defense Fund, East Setauket, N.Y.
31. Title Insurance and Trust Co., Los Angeles, Calif.
32. Offshore Operators Committee, New Orleans, La.
33. Eugene V. Coan, Ph. D., Palo Alto, Calif.
34. Maryland Environmental Trust, Baltimore, Md.
35. Louisiana Power and Light Co., New Orleans, La.
36. State of Ohio Environmental Protection Agency, Columbus, Ohio.
37. Environmental Law Station, Tallahassee, Fla.
38. Consolidated Edison Co., New York, N.Y.
39. Assistant to the Governor on Natural Resources, State of Oregon, Salem, Oreg.
40. Standard Oil Company of California, San Francisco, Calif.
41. Department of Transportation, State of Maryland, Baltimore, Md.
42. Potomac Electric Power Co., Washington, D.C.
43. Brisbane Citizens for Civic Progress, Brisbane, Calif.
44. Tennessee Valley Authority, Knoxville, Tenn.
45. Robert O. Delzell, Burlingame, Calif.
46. Save San Francisco Bay Association, Berkeley, Calif.
47. Getty Oil Co., New Orleans, La.
48. Mr. Don H. Adams, Corte Madera, Calif.
49. Mr. B. Ahbel, Mill Valley, Calif.
50. League of Women Voters of the Bay Area, Lafayette, Calif.
51. Mrs. Patricia L. Dresel, Greenbrae, Calif.
52. Mr. and Mrs. Francis Strauss, Mill Valley, Calif.
53. Sierra Club, Palo Alto, Calif.
54. Tropical Audubon Society, Inc., Miami, Fla.
55. Mrs. Barbara Shockley, San Lorenzo, Calif.
56. Mrs. Alfred Kraeger, Corte Madera, Calif.
57. Ms. Anne Tamimi, Corte Madera, Calif.
58. Mrs. Ruth Lee Blankenstein, New Orleans, La.
59. Mrs. Herbert Briggs, Geoffrey Barrett, David Baum, Alta Fly, Mrs. Thomas Stone, Mill Valley, Calif.
60. Environmental Systems Industries, Irvine, Calif.
61. Open Space Committee, Corte Madera, Calif.
62. Donald R. Kogut, Mill Valley, Calif.
63. Clell E. Harris, Corte Madera, Calif.
64. Mr. and Mrs. Ellis C. Anderson, Corte Madera, Calif.
65. Mr. and Mrs. William G. Gordon, Corte Madera, Calif.
66. Edison Electric Institute, New York, N.Y.
67. Mrs. Gilbert Tunnison, Corte Madera, Calif.
68. F. Gentry Harris, MD., Greenbrae, Calif.
69. Mr. and Mrs. Pesley N. Forden, Alameda, Calif.
70. Ms. Judith Horne, Corte Madera, Calif.
71. The City Attorney, Long Beach, Calif.

§ 209.120 Permits for Activities in Navigable Waters or Ocean Waters.

(a) *Purpose.* This regulation prescribes the policy, practice, and procedure to be followed by all Corps of Engineers installations and activities in connection with applications for permits authorizing structures and work in or affecting navigable waters of the United States, the discharge of dredged or fill material into navigable waters, and the transportation of dredged material for the purpose of dumping it into ocean waters.

(b) *Laws Requiring Authorization of Structures or Work.* (1) Section 9 of the River and Harbor Act approved March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401) prohibits the construction of any dam or dike across any navigable water of the United States in the absence of Congressional consent and approval of the plans by the Chief of Engineers and the Secretary of the Army. Where the navigable portions of the waterbody lie wholly within the limits of a single State, the structure may be built under authority of the legislature of that State, if the location and plans or any modification thereof, are approved by the Chief of Engineers and by the Secretary of the Army. The instrument of authorization is designated a permit. Section 9 also pertains to bridges and causeways but the authority of the Secretary of the Army and Chief of Engineers with respect to bridges and causeways was transferred to the Secretary of Transportation under the Department of Transportation Act on October 16, 1966 (80 Stat. 941, 49 U.S.C. 1165g(6)(A)).

(2) Section 10 of the River and Harbor Act approved March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403) prohibits the unauthorized obstruction or alteration of any navigable water of the United States. The construction of any structure in or over any navigable water of the United States, the excavation from or depositing of material in such waters, or the accomplishment of any other work affecting the course, location, condition, or capacity of such waters are unlawful unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of the Army. The instrument of authorization is designated a permit or letter of permission. The authority of the Secretary of the Army to prevent obstructions to navigation in the navigable waters of the United States was extended to artificial islands and fixed structures located on the outer continental shelf by section 4(f) of the Outer Continental Shelf Lands Act of 1953 (67 Stat. 463; 43 U.S.C. 1333(f)).

(3) Section 11 of the River and Harbor Act approved March 3, 1899 (30 Stat. 1151; 33 U.S.C. 404) authorizes the Secretary of the Army to establish harbor lines channelward of which no piers, wharves, bulkheads, or other works may be extended or deposits made without approval of the Secretary of the Army. Regulations (ER 1145-2-304) have been promulgated relative to this authority and published at § 209.150. By policy stated in those regulations effective May 27, 1970, harbor lines are guidelines only for defining the offshore limits of structures and fills insofar as they impact on navigation interests. Except as provided in paragraph (e)(1) of this section below, permits for work shoreward of those lines must be obtained in accordance with section 10 of the same Act, cited above.

(4) Section 13 of the River and Harbor Act approved March 3, 1899 (30 Stat. 1152; 33 U.S.C. 407) provides that the Secretary of the Army, whenever the Chief of Engineers determines that anchorage and navigation will not be injured thereby, may permit the discharge of refuse into navigable waters. In the absence of a permit, such discharge of refuse is prohibited. While the prohibition of this section, known as the Refuse Act, is still in effect, the permit authority of the Secretary of the Army has been superseded by the permit authority provided the Administrator, Environmental Protection Agency, under sections 402 and 405 of the Federal Water Pollution Control Act (PL 92-500, 86 Stat. 816, 33 U.S.C. 1342 and 1345).

(5) Section 14 of the River and Harbor Act approved March 3, 1899 (30 Stat. 1152; 33 U.S.C. 408) provides that the Secretary of the Army on the recommendation of the Chief of Engineers may grant permission for the temporary occupation or use of any sea wall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the United States. This permission will be granted by an appropriate real estate instrument in accordance with existing real estate regulations.

(6) Section 1 of the River and Harbor Act of June 13, 1902 (32 Stat. 371; 33 U.S.C. 565) allows any persons or corporations desiring to improve any navigable river at their own expense and risk to do so upon the approval of the plans and specifications by the Secretary of the Army and the Chief of Engineers. Improvements constructed under this authority, which are primarily in Federal project areas, remain subject to the control and supervision of the Secretary of the Army and the Chief of Engineers. The instrument of authorization is designated a permit.

(7) Section 404 of the Federal Water Pollution Control Act (PL 92-500, 86 Stat. 816, 33 U.S.C. 1344) authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits, after notice and opportunity for public hearings, for the discharge of dredged or fill material into the navigable waters at specified disposal sites. The selection of disposal sites will be in accordance with guidelines developed by the Administrator of the Environmental Protection Agency (EPA) in conjunction with the Secretary of the Army. Furthermore, the Administrator can prohibit or restrict the use of any defined area as a disposal site whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such areas will have an unacceptable adverse effect on municipal water supplies, shell fish beds and fishery areas, wildlife or recreational areas.

(8) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (PL 92-532, 86 Stat. 1052, 33 U.S.C. 1413) authorizes the Secretary of the Army to issue permits, after notice and opportunity for public hearings, for the transportation of dredged material for the purpose of dumping it in ocean waters. However, similar to the EPA Administrator's limiting authority cited in paragraph (b)(7) of this section, the Administrator can prevent the issuance of a permit under this authority if he finds that the dumping of the material will result in an unacceptable adverse impact on municipal water supplies, shellfish beds, wildlife, fisheries or recreational areas.

(9) The New York Harbor Act of June 29, 1888, as amended (33 U.S.C. 441 et seq.) provides for the issuance of permits by the Supervisors of the New York, Baltimore, and Hampton Roads Harbors for the transportation upon and/or discharge in those harbors of a variety of materials including dredgings, sludge and acid. The District Engineers of New York, Baltimore and Norfolk have been designated the Supervisors of these harbors, respectively. However, section 511 (b) of the Federal Water Pollution Control Act (PL 92-500, 86 Stat. 816) provides that the discharge of these materials into navigable waters shall be regulated pursuant to that Act and not the New York Harbor Act except as to the effect on navigation and anchorage. In addition, section 106(a) of the Marine Protection, Research and Sanctuaries Act of 1972 (PL 92-532, 86 Stat. 1052) provides that all permits for discharges in ocean waters shall only be issued in accordance with the Act after April 23, 1973. Therefore, the supervisors of these three harbors will no longer issue permits under the authority of the New York Harbor Act, as amended, for transportation and/or discharge of these materials.

(c) *Related Legislation.* (1) Section 401 of the Federal Water Pollution Control Act (PL 92-500; 86 Stat. 816, 33 U.S.C. 1411) requires any applicant for a Federal license or permit to conduct any activity which may result in a discharge into navigable waters to obtain a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that the discharge will comply with the applicable effluent limitations and water quality standards. A certification obtained for the construction of any facility must also pertain to the subsequent operation of the facility.

(2) Section 307(c)(3) of the Coastal Zone Management Act of 1972 (PL 92-583, 86 Stat. 1280, 16 U.S.C. 1456(c)(3)) requires any applicant for a Federal license or permit to conduct an activity affecting land or water uses in the State's coastal zone to furnish a certification that the proposed activity will comply with the State's coastal zone management program. Generally, no permit will be issued until the State has concurred

with the applicant's certification. This provision becomes effective upon approval by the Secretary of Commerce of the State's coastal zone management program.

(3) Section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 (PL 92-532, 86 Stat. 1052, 16 U.S.C. 1432) authorizes the Secretary of Commerce, after consultation with other interested Federal agencies and with the approval of the President, to designate as marine sanctuaries those areas of the ocean waters or of the Great Lakes and their connecting waters or of other coastal waters which he determines necessary for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values. After designating such an area, the Secretary of Commerce shall issue regulations to control any activities within the area. Activities in the sanctuary authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with the purposes of Title III of the Act and can be carried out within the regulations for the sanctuary.

(4) The National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) declares the national policy to encourage a productive and enjoyable harmony between man and his environment. Section 102 of that Act directs that "to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall * * * insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision making along with economic and technical considerations * * *." See also paragraph (l)(1) of this section on environmental statements.

(5) The Fish and Wildlife Act of 1956 (16 U.S.C. 742a, et seq.), the Migratory Marine Game-Fish Act (16 U.S.C. 760c-760g) and the Fish and Wildlife Coordination Act (16 U.S.C. 661-666c) and other acts express the concern of Congress with the quality of the aquatic environment as it affects the conservation, improvement and enjoyment of fish and wildlife resources. Reorganization Plan No. 4 of 1970 transferred certain functions, including certain fish and wildlife-water resources coordination responsibilities, from the Secretary of the Interior to the Secretary of Commerce. Under the Fish and Wildlife Coordination Act and Reorganization Plan No. 4, any Federal Agency which proposes to control or modify any body of water must first consult with the United States Fish and Wildlife Service, the National Marine Fisheries Service, as appropriate, and with the head of the appropriate State agency exercising administration over the wildlife resources of the affected State.

(6) The Federal Power Act of 1920 (41 Stat. 1063; 16 U.S.C. 791a et seq.), as amended, authorizes the Federal Power Commission (FPC) to issue licenses for the construction, operation and maintaining of dams, water conduits, reservoirs, power houses, transmission lines, and other physical structures of a power project. However, where such structures will affect the navigable capacity of any navigable waters of the United States (as defined in 16 U.S.C. 796), the plans for the dam or other physical structures affecting navigation must be approved by the Chief of Engineers and the Secretary of the Army. In such cases, the interests of navigation should normally be protected by a recommendation to the FPC for the inclusion of appropriate provisions in the FPC license rather than the issuance of a separate Department of the Army permit under 33 U.S.C. 401 et seq. As to any other activities in navigable waters not constituting construction, operation and maintenance of physical structures licensed by the FPC under the Federal Power Act of 1920, as amended, the provisions of 33 U.S.C. 401 et seq. remain fully applicable. In all cases involving the discharge of dredged or fill material into navigable waters or the transportation of dredged material for the purpose of dumping in ocean waters, Department of the Army permits under section 404 of the Federal Water Pollution Control Act, or under section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 will be required.

(7) The National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470) created the Advisory Council on Historic Preservation to advise the President and Congress on matters involving historic preservation. In performing its function the Council is authorized to review and comment upon activities licensed by the Federal Government which will have an effect upon properties listed in the National Register of Historic Places.

(8) The Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 et seq.) prohibits any developer or agent from selling or leasing any lot in a subdivision unless the purchaser is furnished in advance a printed property report including information which the Secretary of Housing and Urban Development may, by rules or regulations, require for the protection of purchasers. In the event the lot in question is in a wetlands area, the report is required by Housing and Urban Development regulation to state that no permit has been granted by the Corps of Engineers for the development under Section 10 of the River Harbor Act of 1899.

(9) The Water Resources Planning Act (42 U.S.C. 1962 et seq.) provides for the possible establishment upon request of the Water Resources Council or a State of river basin water and related land resources commissions. Each such commission shall coordinate Federal, State, interstate, local and nongovernmental plans for the development of water and related land resources in its area, river basin, or group of river basins. In the event the proposed Corps of Engineers permits to non-governmental developers or other agencies under section 10 of the River and Harbor Act of 1899 and section 404 of the Federal Water Pollution Control Act may affect the plans of such river basin commissions, the permits will be coordinated with the appropriate concerned river basin commissions. The same is true of Corps of Engineers authorizations to private persons or corporations to improve navigable rivers at their own expense under section 1 of the River and Harbor Act of 1902.

(d) Definitions. For the purpose of issuing or denying authorizations under this regulation:

(1) The term "navigable waters of the United States" and "navigable waters," as used herein mean those waters of the United States which are subject to the ebb and flow of the tide, and/or are presently, or have been in the past, or may be in the future susceptible for use for purposes of interstate or foreign commerce (See 33 CFR 209.260 for a more complete definition of these terms).

(2) The term "ocean waters," as defined in the Marine Protection Research and Sanctuaries Act of 1972 (PL 92-532, 86 Stat. 1052), means those waters of the open seas lying seaward of the base line from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639).

(3) The term "dredged material" means any material excavated or dredged from navigable waters of the United States including any runoff or overflow which occurs during a dredging operation or from a contained land or water disposal area.

(4) The term "fill material" means any material deposited or discharged into navigable waters which may result in creating fastlands or other planned elevations of lands beneath navigable waters.

(5) The term "person" means any individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, any interstate body, or any agency or instrumentality of the Federal Government.

(6) The term "coastal zone" means the coastal waters and adjacent shorelands designated by a State as being included in its approved coastal zone management program under the Coastal Zone Management Act of 1972.

(e) *Activities Requiring Authorizations.* (1) Department of the Army authorizations are required under the River and Harbor Act of 1899 (See paragraph (b), of this section) for all structures or work in navigable waters of the United States except for bridges and causeways (see Appendix A), the placement of aids to navigation by the U.S. Coast Guard, structures constructed in artificial canals within principally residential developments where the canal has been connected to a navigable water of the United States (See paragraph (g)(11) of this section), and activities which were commenced or completed shoreward of established harbor lines before May 27, 1970 (See § 209.150) other than those activi-

ties involving the discharge of dredged or fill material in navigable waters after October 18, 1972.

(i) Structures or work are in the navigable waters of the United States if they are within limits defined in § 209.260. Structures or work outside these limits are subject to the provisions of law cited in paragraph (b) of this section if these structures or work affect the course, location, or condition of the waterbody in such a manner as to significantly impact on the navigable capacity of the waterbody. A tunnel or other structure under a navigable water of the United States is considered to have a significant impact on the navigable capacity of the waterbody.

(ii) Structures or work licensed under the Federal Power Act of 1920 do not require Department of the Army authorizations under the River and Harbor Act of 1899 (See paragraphs (b) and (c) of this section); provided, however, that any part of such structures or work which involves the discharge of dredged or fill material into navigable waters or the transportation of dredged material for the purpose of dumping it into ocean waters will require Department of the Army authorization under section 404 of the Federal Water Pollution Control Act and section 103 of the Marine Protection, Research and Sanctuaries Act, as appropriate.

(2) In addition, Department of the Army authorizations will be required for the discharge of dredged or fill material into the navigable waters, for the transportation of dredged material for the purpose of dumping it into ocean waters, and for artificial islands and fixed structures on the outer continental shelf.

(3) Except as specifically provided in this subparagraph, activities of the type described in paragraph (e)(1) and (2) of this section done by or on behalf of any Federal agency, other than the Civil Works activities of the Corps of Engineers, are subject to the authorization procedures of this regulation. Agreement for construction or engineering services performed for other agencies by the Corps of Engineers do not constitute authorization under this regulation. Division and District Engineers will therefore advise Federal agencies accordingly, and cooperate to the fullest extent in expediting the processing of their applications.

(i) By section 10 of the Act of March 3, 1899 (see subparagraph b(2), above) Congress has delegated to the Secretary of the Army and the Chief of Engineers the duty of authorizing or prohibiting certain work or structures in navigable waters of the United States. The general legislation by which Federal agencies are empowered to act generally is not considered to the sufficient authorization by Congress to satisfy the purposes of section 10. If an agency asserts that it has Congressional authorization meeting the test of section 10 or would otherwise be exempt from the provisions of section 10, the legislative history and/or provisions of the Act should clearly demonstrate that Congress was approving the exact location and plans from which Congress could have considered the effect on navigable waters of the United States or that Congress intended to exempt that agency from the requirements of section 10. Very often such legislation reserves final approval of plans or construction for the Chief of Engineers. In such cases evaluation and authorization under this regulation are limited by the intent of the statutory langauge involved.

(ii) The policy provisions set out in paragraph (f)(4) of this section, relating to State or local authorizations, do not apply to work or structures undertaken by Federal agencies, except where compliance with non-Federal authorization is required by Federal law or Executive policy. Federal agencies are required to comply with the substantive State, interstate, and local water quality standards and effluent limitations adopted in accordance with or effective under the provisions of the Federal Water Pollution Control Act, as amended, in the design, construction, management, operation, and maintenance of their respective facilities. (See Excutive Order No. 11752, dated 17, Dec. 73). They are not required, however, to obtain and provide certification of compliance with effluent limitations and water quality standards from State or interstate water pollution control agencies in connection with activities involving discharges into navigable waters.

(f) *General Policies for Evaluating Permit Applications.* (1) The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed structure or work and its intended use on the public interest. Evaluation of the probable impact which the proposed structure or work may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process (e.g., see § 209.400, *Guidelines for Assessment of Economic, Social and Environmental Effects of Civil Works Projects*). That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered; among those are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use classifications, navigation, recreation, water supply, water quality and, in general, the needs and welfare of the people. No permit will be granted unless its issuance is found to be in the public interest.

(2) The following general criteria will be considered in the evaluation of every application:

(i) the relative extent of the public and private need for the proposed structure or work;

(ii) the desirability of using appropriate alternative locations and methods to accomplish the objective of the proposed structure or work;

(iii) the extent and permanence of the beneficial and/or detrimental effects which the proposed structure or work may have on the public and private uses to which the area is suited; and

(iv) the probable impact of each proposal in relation to the cumulative effect created by other existing and anticipated structures or work in the general area.

(3) As a matter of policy, permits will not be issued where authorization of the proposed work is required by State and/or local law and that authorization has been denied. However, initial processing of an application for a Department of the Army permit will proceed until definitive action has been taken by the responsible State or local body to grant or deny authorization. Where the required State and/or local authorization has been denied and procedures for reconsideration exist, reasonable time not to exceed 90 days will be allowed for the applicant to attempt to resolve the problem and/or obtain reconsideration of the denial. If the State or local denial of authorization cannot be thus resolved, the application will be denied in accordance with paragraph (p) of this section.

(i) Where authorized State, Regional or local land use classifications, determinations, or policies are applicable to the land or water areas under consideration, they shall be presumed to reflect local factors of the public interest.

(ii) Even if official authorization is not required by State and/or local law, but an affected State, regional or local agency comments on the application, due consideration shall be given to those official views as a reflection of local factors of the public interest.

(g) *Policies on Particular Factors of Consideration.* In applying the general policies cited above to the evaluation of a permit application, Corps of Engineers officials will also consider the following policies when they are applicable to the specific application:

(1) *Interference with Adjacent Properties or Water Resource Projects.* Authorization of work or structures by the Department of the Army does not convey a property right, nor authorize any injury to property or invasion of other rights.

(i) (*a*) Because a landowner has the general right to protect his property from erosion, applications to erect protective structures will usually receive favorable consideration. However, if the protective structure may cause damage to the property of others, the District Engineer will so advise the applicant and inform him of possible alternative methods of protecting his property. Such advice will be given in terms of general guidance only so as not to compete with private enginering firms nor require un-

due use of government resources. A significant probability of resulting damage to nearby properties can be a basis for denial of an application.

(b) A landowner's general right of access to navigable waters is subject to the similar rights of access held by nearby landowners and to the general public's right of navigation on the water surface. Proposals which create undue interference with access to, or use of, navigable waters will generally not receive favorable consideration.

(ii) (a) Where it is found that the work for which a permit is desired may interfere with a proposed civil works project of the Corps of Engineers, the applicant and the party or parties responsible for fulfillment of the requirements of local cooperation should be apprised in writing of the fact and of the possibility that a civil works project which may be constructed in the vicinity of the proposed work might necessitate its removal or reconstruction. They should also be informed that the United States will in no case be liable for any damage or injury to the structures or work authorized which may be caused by or result from future operations undertaken by the Government for the conservation or improvement of navigation, or for other purposes, and no claims or right to compensation will accrue from any such damage.

(b) Proposed activities which are in the area of a civil works project which exists or is under construction will be evaluated to insure that they are compatible with the purposes of the project.

(2) *Non-Federal Dredging for Navigation.* (i) The benefits which an authorized Federal navigation project is intended to produce will often require similar and related operations by non-Federal agencies (e.g., dredging an access channel to dock and berthing facilities or deepening such a channel to correspond to the Federal project depth). These non-Federal activities will be considered by Corps of Engineers officials in planning the construction and maintenance of Federal navigation projects and, to the maximum practical extent, will be coordinated with interested Federal, State, regional and local agencies and the general public simultaneously with the associated Federal projects. Non-federal activities which are not so coordinated will be individually evaluated in accordance with paragraph (f) of this section. In evaluating the public interest in connection with applications for permits for such coordinated operations, equal treatment will, therefore, be accorded to the fullest extent possible to both Federal and non-Federal operations. Furthermore, permits for non-Federal dredging operations will contain conditions requiring the permittee to comply with the same practices or requirements utilized in connection with related Federal dredging operations with respect to such matters as turbidity, water quality, containment of material, nature and location of approved spoil disposal areas (non-Federal use of Federal contained, disposal areas will be in accordance with laws authorizing such areas and regulations governing their use), extent and period of dredging, and other factors relating to protection of environmental and ecological values. (See also paragraph (g) (17) of this section.)

(ii) A permit for the dredging of a channel, slip, or other such project for navigation will also authorize the periodic maintenance dredging of the project. Authority for maintenance dredging will be subject to revalidation at regular intervals to be specified in the permit. Revalidation will be in accordance with the procedures prescribed in paragraph (n) (5) of this section. The permit, however, will require the permittee to give advance notice to the District Engineer each time maintenance dredging is to be performed.

(3) *Effect on Wetlands.* (i) Wetlands are those land and water areas subject to regular inundation by tidal, riverine, or lacustrine flowage. Generally included are inland and coastal shallows, marshes, mudflats, estuaries, swamps, and similar areas in coastal and inland navigable waters. Many such areas serve important purposes relating to fish and wildlife, recreation, and other elements of the general public interest. As environmentally vital areas, they constitute a productive and valuable public resource, the unnecessary alteration or destruction of which should be discouraged as contrary to the public interest.

(ii) Wetlands considered to perform functions important to the public interest include:

(a) Wetlands which serve important natural biological functions, including food chain production, general habitat, and nesting, spawning, rearing and resting sites for aquatic or land species;

(b) Wetlands set aside for study of the aquatic environment or as sanctuaries or refuges;

(c) Wetlands contiguous to areas listed in paragraph (g) (3) (ii) (a) and (b) of this section, the destruction or alteration of which would affect detrimentally the natural drainage characteristics, sedimentation patterns, salinity distribution, flushing characteristics, current patterns, or other environmental characteristics of the above areas;

(d) Wetlands which are significant in shielding other areas from wave action, erosion, or storm damage. Such wetlands often include barrier beaches, islands, reefs and bars;

(e) Wetlands which serve as valuable storage areas for storm and flood waters; and

(f) Wetlands which are prime natural recharge areas. Prime recharge areas are locations where surface and ground water are directly interconnected.

(iii) Although a particular alteration of wetlands may constitute a minor change, the cumulative effect of numerous such piecemeal changes often results in a major impairment of the wetland resources. Thus, the particular wetland site for which an application is made will be evaluated with the recognition that it is part of a complete and interrelated wetland area. In addition, the District Engineer may undertake reviews of particular wetland areas, in response to new applications, and in consultation with the appropriate Regional Director of the Bureau of Sport Fisheries and Wildlife, the Regional Director of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, the Regional Administrator of the Environmental Protection Agency, the local representative of the Soil Conservation Service of the Department of Agriculture, and the head of the appropriate State agency to assess the cumulative effect of activities in such areas.

(iv) Unless the public interest requires otherwise, no permit shall be granted for work in wetlands identified as important by subparagraph (ii), above, unless the District Engineer concludes, on the basis of the analysis required in paragraph (f) of this section, that the benefits of the proposed alteration outweigh the damage to the wetlands resource and the proposed alteration is necessary to realize those benefits.

(a) In evaluating whether a particular alteration is necessary, the District Engineer shall primarily consider whether the proposed activity is dependent upon the wetland resources and environment and whether feasible alternative sites are available.

(b) The applicant must provide sufficient data on the basis of which the availability of feasible alternative sites can be evaluated.

(v) In accordance with the policy expressed in paragraph (f) (3) of this section, and with the Congressional policy expressed in the Estuary Protection Act, PL 90-454, state regulatory laws or programs for classification and protection of wetlands will be given great weight. (See also paragraph (g) (18) of this section).

(4) *Fish and Wildlife.* (i) In accordance with the Fish and Wildlife Coordination Act (see paragraph (c) (5) of this section) Corps of Engineers officials will in all permit cases, consult with the Regional Director, U.S. Fish and Wildlife Service, the Regional Director, National Marine Fisheries Service, and the head of the agency responsible for fish and wildlife for the state in which the work is to be performed, with a view to the conservation of wildlife resources by prevention of their loss and damage due to the work or structures proposed in a permit application (see paragraphs (i) (1) (ii) and (j) (2) of this section). They will give great weight to these views on fish and wildlife considerations in evaluating the application. The applicant will be urged to modify his proposal to eliminate or mitigate any damage to such resources, and in appropriate cases the permit may be conditioned to accomplish this purpose.

(ii) The Division Engineer may issue a permit over an unresolved objection based on fish and wildlife considerations by the regional representative of Federal fish and wildlife agencies unless otherwise directed by the Chief of Engineers; provided, however, that the policies and

procedures stated in the Memorandum of Understanding between the Department of the Army and the Department of the Interior (Appendix B) will be followed with respect to all activities involving dredging, excavation, filling and other related work.

(5) *Water Quality.* (i) Applications for permits for activities which may affect the quality of navigable waters will be evaluated with a view toward compliance with applicable effluent limitations and water quality standards during both the construction and operation of the proposed activity. Certification of compliance with applicable effluent limitations and water quality standards required under provisions of Section 401 of the Federal Water Pollution Control Act will be considered conclusive with respect to water quality considerations unless the Regional Administrator, Environmental Protection Agency (EPA), advises of other water quality aspects to be taken into consideration. If the certification provided is to the effect that no effluent limitation and water quality standards have been established as applicable to the proposed activity, or if certification is not required for the proposed activity, the advice of the Regional Administrator, EPA, on water quality aspects will be given great weight in evaluating the permit application. Any permit issued may be conditioned to implement water quality protection measures.

(ii) If the Regional Administrator, EPA, objects to the issuance of a permit on the basis of water quality considerations and the objection is not resolved by the applicant or the District Engineer, and the District Engineer would otherwise issue the permit, the application will be forwarded through channels to the Chief of Engineers for further coordination with the Administrator, EPA, and decision. (See also paragraphs (b)(7) and (b)(8), above, and (g)(17) and (i)(2)(i) of this section.)

(6) *Historic, Scenic, and Recreational Values.* (i) Applications for permits covered by this regulation may involve areas which possess recognized historic, cultural, scenic, conservation, recreational or similar values. Full evaluation of the general public interest requires that due consideration be given to the effect which the proposed structure or activity may have on the enhancement, preservation, or development of such values. Recognition of those values is often reflected by State, regional, or local land use classifications (see paragraph (f)(3) of this section), or by similar Federal controls or policies. In both cases, action on permit applications should, insofar as possible, be consistent with, and avoid adverse effect on, the values or purposes for which those classifications, controls, or policies were established.

(ii) Specific application of the policy in paragraph (g)(6)(i) of this section, applies to:

(*a*) Rivers named in Section 3 of the Wild and Scenic Rivers Act (82 Stat. 906, 16 U.S.C. 1273 et seq.), and those proposed for inclusion as provided by sections 4 and 5 of the Act, or by later legislation.

(*b*) Historic, cultural, or archeological sites or practices as provided in the National Historic Preservation Act of 1966 (83 Stat. 852, 42 U.S.C. 4321 et seq.) (see also Executive Order 11593, May 13, 1971, and Statutes there cited). Particular attention should be directed toward any district, site, building, structure, or object listed in the National Register of Historic Places. Comments regarding such undertakings shall be sought and considered as provided by paragraph (i)(2)(iii) of this section.

(*c*) Sites included in the National Registry of Natural Landmarks which are published periodically in the FEDERAL REGISTER.

(*d*) Any other areas named in Acts of Congress or Presidential Proclamations as National Rivers, National Wilderness Areas, National Seashores, National Recreation Areas, National Lakeshores, National Parks, National Monuments, and such areas as may be established under Federal law for similar and related purposes, such as estuarine and marine sanctuaries.

(7) *Structures for Small Boats.* As a matter of policy, in the absence of overriding public interest, favorable consideration will be generally be given to applications from riparian proprietors for permits for piers, boat docks, moorings, platforms and similar structures for small boats. Particular attention will be given to the location and general design of such structures to prevent possible obstructions to navigation with respect to both the public's use of the waterway and the neighboring proprietors' access to the waterway. Obstructions can result from both the existence of the structure, particularly in conjunction with other similar facilities in the immediate vicinity, and from its inability to withstand wave action or other forces which can be expected. District Engineers will inform applicants of the hazards involved and encourage safety in location, design and operation. Corps of Engineers officials will also encourage cooperative or group use facilities in lieu of individual proprietor use facilities.

(i) Letters transmitting permits for structures for small boats will, where applicable, include the following language: "Notice is hereby given that a possibility exists that the structure permitted may be subject to damage by wave wash from passing vessels. Your attention is invited to special condition _____ of the permit." The appropriate designation of the permit condition placing responsibility on the permittee and not on the United States for integrity of the structure and safety of boats moored thereto will be inserted.

(ii) Floating structures for small recreational boats or other recreational purposes in lakes owned and operated by the Corps of Engineers under a Resources Manager are normally subject to permit authorities cited in paragraph (b), above when those waters are regarded as navigable waters of the United States. (See 33 CFR 209.260). However, such structures will not be authorized under this regulation but will be regulated under applicable regulations of the Chief of Engineers published in Chapter III, Part 327.19 of Title 36, Code of Federal Regulations if the land surrounding those lakes is under complete Federal ownership. District Engineers will delineate those portions of the navigable waters of the United States where this provision is applicable and post notices of this designation in the vicinity of the lake Resources Manager's office.

(8) *Aids to Navigation.* (1) The placing of non-Federal fixed and floating aids to navigation in a navigable water of the United States is within the purview of section 10 of the River and Harbor Act of 1899. Furthermore, these aids are of particular interest to the U.S. Coast Guard because of their control of marking, lighting and standardization of such navigation aids. Applications for permits for installation of aids to navigation will, therefore, be coordinated with the appropriate District Commander, U.S. Coast Guard, and permits for such aids will include a condition to the effect that the permittee will conform to the requirements of the Coast Guard for marking, lighting, etc. Since most fixed and floating aids to navigation will not ordinarily significantly affect environmental values, the usual form of authorization to be used will be a letter of permission.

(ii) Fishing structures and appliances in navigable waters of the United States will be lighted for the safety of navigation as follows: Lights will be displayed between sunset and sunrise. They will be placed at each end of the structure, except where the inner end terminates at such a point where there could be no practicable navigation between it and the high-water line of the adjacent coast. In such case no inner light will be required. The outer light will be white, and the inner light will be red. The size, capacity, and manner of maintenance of the lights will be specified in the Department of the Army permit authorizing the erection of the structure or appliances. When several structures or appliances are placed on one line with no navigable passage between them, they will be considered for lighting purposes as one structure.

(9) *Outer Continental Shelf.* Artificial islands and fixed structures located on the outer continental shelf are subject to the standard permit procedures of this regulation. Where the islands or structures are to be constructed on lands which are under mineral lease from the Bureau of Land Management, Department of the Interior, that agency, in cooperation with other Federal agencies, fully evaluates the potential effect of the leasing program on the total environment. Accordingly, the decision whether to issue a permit on lands which are under mineral lease from the Department of the Interior will be limited to an evaluation of the impact of the proposed work on navigation and national security. The public notice will so identify the criteria (see paragraph (j)(1)(viii) (*b*) of this section).

(10) *Effect on Limits of the Territorial Sea.* Structures or work affecting coastal waters may modify the coast line or baseline from which the three mile belt is measured for purposes of the Submerged Lands Act and International Law. Generally, the coast line or base line is the line of ordinary low water on the mainland; however, there are exceptions where there are islands or low-tide elevations off shore. (See the Submerged Lands Act, 67 Stat. 29, U.S. Code section 1301(c), and United States v. California, 381 U.S. 139 (1965), 382 U.S. 448 (1966)). All applications for structures or work affecting coastal waters will therefore be reviewed specifically to determine whether the coast line or baseline might be altered. If it is determined that such a change might occur, coordination with the Attorney General and the Solicitor of the Department of the Interior is required before final action is taken. The District Engineer will submit a description of the proposed work and a copy of the plans to the Solicitor, Department of the Interior, Washington, D.C. 20240, and request his comments concerning the effects of the proposed work on the outer continental rights of the United States. These comments will be included in the file of the application. After completion of standard processing procedures, the file will be forwarded to the Chief of Engineers. The decision in the application will be made by the Secretary of the Army after coordination with the Attorney General.

(11) *Canals and Other Artificial Waterways Connected to Navigable Waters.* (i) A canal or similar artificial waterway is subject to the regulatory authorities discussed in paragraph (b)(2) of this section if it constitutes a navigable water of the United States, or if it is connected to navigable waters of the United States in a manner which affects their course, condition, or capacity. In all cases the connection to navigable waters of the United States requires a permit. Where the canal itself constitutes a navigable water of the United States, evaluation of the permit application and further exercise of regulatory authority will be in accordance with the standard procedures of this regulation. For all other canals the exercise of regulatory authority is restricted to those activities which affect the course, condition, or capacity of the navigable waters of the United States. Examples of the latter may include the length and depth of the canal; the currents circulation, quality and turbidity of its waters, especially as they affect fish and wildlife values; and modifications or extensions of its configuration.

(ii) The proponent of canal work should submit his application for a permit, including a proposed plan of the entire development, and the location and description of anticipated docks, piers and other similar structures which will be placed in the canal, to the District Engineer before commencing any form of work. If the connection to navigable waters of the United States has already been made without a permit, the District Engineer will proceed in accordance with paragraph (g)(12)(i) of this section. Where a connection has not yet occurred, but canal construction is planned or has already begun, the District Engineer will, in writing, advise the proponent of the need for a permit to connect the canals to navigable waters of the United States. He will also ask the proponent if he intends to make such a connection and will request the immediate submission of the plans and permit application if it is so intended. The District Engineer will also advise the proponent that any work is done at the risk that, if a permit is required, it may not be issued, and that the existence of partially-completed excavation work will not be allowed to weigh favorably in evaluation of the permit application.

(12) *Unauthorized Activities.* The following procedures will be followed with respect to activities which are performed without proper authorization.

(i) When the District Engineer becomes aware of any unauthorized activity which is still in progress, he shall immediately issue a cease and desist order to all persons responsible for and/or involved in the performance of the activity. In appropriate cases, the District Engineer may also order interim protective measures to be taken in order to protect the public interest. If there is noncompliance with this cease and desist order, the District Engineer shall forward a factual report immediately to the local U.S. Attorney with a request that a temporary restraining order and/or preliminary injunction be obtained against the responsible persons.

(ii) In all cases, the District Engineer shall commence an immediate investigation to ascertain the facts surrounding the unauthorized activity. In making this investigation, the District Engineer shall solicit the views of appropriate Federal, State and local agencies, and shall request the persons involved in the unauthorized activity to provide appropriate information on this activity which will assist him in evaluating the activity and recommending the course of action to be taken. The District Engineer shall evaluate the information and views developed during this investigation in conjunction with the factors and criteria cited in paragraph (f) of this section and shall formulate recommendations as to the appropriate administrative and/or legal action to be taken, subject to the following:

(*a*) Except where the activity was performed in nontidal waters prior to an administrative, judicial or legislative determination that the water is a navigable water of the United States, the District Engineer is not authorized to process or accept for processing any permit application received.

(*1*) The District Engineer shall in all cases other than those covered by paragraph (g)(12)(ii)(*a*)(2) of this section prepare and forward a report to the Chief of Engineers, ATTN: DAEN-GCK, which shall contain an analysis of the data and information obtained during this investigation and recommend appropriate civil and criminal action. In those cases where the analysis of the facts developed during his investigation, when made in conjunction with the factors and criteria in paragraph (f) of this section leads to the preliminary conclusion that removal of the unauthorized activity is in the public interest, the District Engineer shall also recommend restoration of the area to its original condition.

(*2*) In those cases to which the provisions of paragraph (m)(3), below, apply, the District Engineer may refer the matter directly to the local United States Attorney for appropriate legal action.

(*b*) If criminal and/or civil action is instituted against the responsible person, the District Engineer shall not accept for processing any application until final disposition of all judicial proceedings, including the payment of all prescribed penalties and fines and/or the completion of all work ordered by the court. Thereafter, the District Engineer may accept an application for a permit; Provided, that with respect to any judicial order requiring partial or total restoration of an area, the District Engineer, if so ordered by the court, shall supervise this restoration effort and may allow the responsible persons to apply for a permit for only that portion of the unauthorized activity for which restoration has not been so ordered.

(*c*) In those cases where the District Engineer determines that the unauthorized activity was performed in nontidal waters, prior to an administrative, judicial or legislative determination that the water is a navigable water of the United States, the District Engineer shall instruct the responsible persons to immediately file for a permit, unless he determines on the basis of all the facts and circumstances that immediate legal action is warranted. In such cases, the District Engineer will follow the procedures of paragraph (g)(12)(ii)(*a*) and (*b*) of this section.

(iii) Processing and evaluation of applications for after-the-fact authorizations for activities undertaken without the required Department of the Army authorizations will in all other respects follow the standard procedures of this regulation. Thus, authorizations may still be denied in accordance with the policies and procedures of this regulation.

(iv) Where after-the-fact authorization in accordance with this paragraph is determined to be in the public interest, the standard permit form for the activity will be used, omitting inappropriate conditions, and including whatever special conditions the District Engineer may deem appropriate to mitigate or prevent undesirable effects which have occurred or might occur.

(v) Where after-the-fact authorization is not determined to be in the public interest, the notification of the denial of the permit will prescribe any corrective actions to be taken in connection with the work already accomplished and establish a reasonable period of time for the applicant to complete such actions.

The District Engineer, after denial of the permit, will again consider whether civil or criminal action is appropriate.

(vi) If the applicant declines to accept the proposed permit conditions, or fails to take corrective action prescribed in the notification of denial, or if the District Engineer determines, after denying the permit application, that legal action is appropriate, the matter will be referred to the Chief of Engineers, ATTN: DAEN-GCK, with recommendations for appropriate action.

(vii) Applications will generally not be required for work or structures completed before 18 December 1968, nor where potential applicants had received expressions of disclaimer prior to the date of this regulation; *provided, however,* That the procedures of paragraph (g)(12)(i) of this section shall apply to all work or structures which were commenced or completed on or after 18 December 1968, and may be applied to all specific cases, regardless of date of construction or previous disclaimers, for which the District Engineer determines that the interests of navigation so require.

(13) *Facilities at the Borders of the United States.* (i) The construction, operation, maintenance, or connection of facilities at the borders of the United States are subject to Executive control and must be authorized by the President, Secretary of State, or other delegated official.

(*a*) Applications for permits for the construction, operation, maintenance, or connection at the borders of the United States of facilities for the transmission of electric energy between the United States and a foreign country, or for the exportation or importation of natural gas to or from a foreign country, must be made to the Federal Power Commission. (See Executive Order 10485, September 3, 1953, 16 U.S.C. 824(a)(e), 15 U.S.C. 717b, and 18 CFR Parts 32 and 153).

(*b*) Applications for the landing or operation of submarine cables must be made to the Federal Communications Commission. (See Executive Order 10530, May 10, 1954, 47 U.S.C. 34 to 39, and 47 CFR 1.767).

(*c*) The Secretary of State is to receive applications for permits for the construction, connection, operation, or maintenance, at the borders of the United States, of: (*1*) pipelines, conveyors belts, and similar facilities for the exportation or importation of petroleum products, coals, minerals, or other products to or from a foreign country; (*2*) facilities for the exportation or importation of water or sewage to or from a foreign country; (*3*) monorails, aerial cable cars, aerial tramways and similar facilities for the transportation of persons or things, or both, to or from a foreign country. (See Executive Order 11423, August 16, 1968).

(ii) A Department of the Army permit under Section 10 of the River and Harbor Act of March 3, 1899 is also required for all of the above facilities which affect the navigable waters of the United States, but in each case in which a permit has been issued as provided above, the decision whether to issue the Department of the Army permit will be based primarily on factors of navigation, since the basic existence and operation of the facility will have been examined and permitted as provided by the Executive Orders. Furthermore, in those cases where the construction, maintenance, or operation at the above facilities involves the discharge of dredged or fill material in navigable waters or the transportation of dredged material for the purpose of dumping it into ocean waters, appropriate Department of the Army authorizations under section 404 of the Federal Water Pollution Control Act or under section 103 of the Marine Protection Research and Sanctuaries Act of 1972 are also required. Evaluation of applications for these authorizations will be in accordance with paragraph (g)(17) of this section.

(14) *Power Transmission Lines.* (i) Permits under section 10 of the River and Harbor Act of March 3, 1899, (33 U.S.C. 403) are required for power transmission lines crossing navigable waters of the United States unless those lines are part of a water power project subject to the regulatory authorities of the Federal Power Commission under the Federal Water Power Act of 1920 (16 U.S.C. 797). If an application is received for a permit for lines which are part of a water power project, the applicant will be instructed to submit his application to the Federal Power Commission. If the lines are not part of a water power project, the application will be processed in accordance with the procedures prescribed in this regulation.

(ii) The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances which would be required by the U.S. Coast Guard for new fixed bridges, in the vicinity of the proposed power line crossing. The clearances are based on the low point of the line under conditions which produce the greatest sag, taking into consideration temperature, load, wind, length of span, and type of supports as outlined in the National Electrical Safety Code.

	Minimum additional clearance (ft.) above clearance required for bridges
Nominal system voltage, kV:	
115 and below	20
138	22
161	24
230	26
350	30
500	35
700	42
750–765	45

(15) *Seaplane Operations.* Structures in navigable waters of the United States associated with seaplane operations require Department of the Army permits, but close coordination with the Federal Aviation Administration (FAA), Department of Transportation, is required on such applications.

(i) The FAA must be notified by an applicant whenever he proposes to establish or operate a seaplane base. The FAA will study the proposal and advise the applicant, District Engineer, and other interested parties as to the effects of the proposal on the use of airspace. The District Engineer will therefore refer any objections regarding the effect of the proposal on the use of airspace to the FAA, and give due consideration to their recommendations when evaluating the general public interest.

(ii) If the seaplane base will serve air carriers licensed by the Civil Aeronautics Board, the applicant must receive an airport operating certificate from the FAA. That certificate reflects determination and conditions relating to the installation, operation, and maintenance of adequate air navigation facilities and safety equipment. Accordingly, the District Engineer may, in evaluating the general public interest, consider such matters to have been primarily evaluated by the FAA.

(16) *Foreign Trade Zones.* The Foreign Trade Zones Act (48 Stat. 998–1003, 19 U.S.C. sections 81a to 81u, as amended) authorizes the establishment of foreign-trade zones in or adjacent to United States ports of entry under terms of a grant and regulations prescribed by the Foreign-Trade Zones Board. Pertinent regulations are published at Title 15 of the Code of Federal Regulations, Part 400. The Secretary of the Army is a member of the Board, and construction of a zone is under the supervision of the District Engineer. Laws governing the navigable waters of the United States remain applicable to foreign-trade zones, including the general requirements of this regulation. Evaluation by a District Engineer of a permit application may give recognition to the consideration by the Board of the general economic effects of the zone on local and foreign commerce, general location of wharves and facilities, and other factors pertinent to construction, operation, and maintenance of the zone.

(17) *Discharge of Dredged or Fill Material in Navigable Waters or Dumping of Dredged Material in Ocean Waters.* (i) Applications for permits for the discharge of dredged or fill material into navigable waters at specific disposal sites will be reviewed in accordance with guidelines promulgated by the Administrator, EPA, under authority of section 404(b) of the Federal Water Pollution Control Act. If the EPA guidelines alone prohibit the designation of a proposed disposal site, the economic impact on navigation and anchorage of the failure to authorize the use of the proposed disposal site in navigable waters will also be considered in evaluating whether or not the proposed discharge is in the public interest.

(ii) Applications for permits for the transporting of dredged material for the purpose of dumping it into ocean waters will be evaluated to determine that the proposed dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. In making the evaluation, Corps of Engineers officials will apply criteria established by the Administrator, EPA, under authority of section 102 (a) of the Marine Protection, Research and Sanctuaries Act of 1972, and will specify the dumping sites, using the recommendations of the Administrator, pursuant to section 102(c) of the Act, to the extent feasible. (See 40 CFR Part 220). In evaluating the need for the dumping as required by paragraph (f) (2) (i) of this section, Corps of Engineers officials will consider the potential effect of a permit denial on navigation, economic and industrial development, and foreign and domestic commerce of the United States.

(iii) Sites previously designated for use as disposal sites for discharge or dumping of dredged material will be specified to the maximum practicable extent in permits for the discharge or dumping of dredged material in navigable waters or ocean waters unless restricted by the Administrator, EPA, in accordance with section 404(c) of the Federal Water Pollution Control Act or section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972.

(iv) Prior to actual issuance of permits for the discharge or dumping of dredged or fill material in navigable or ocean waters, Corps of Engineers officials will advise appropriate Regional Administrators, EPA, of the intent to so issue permits. If the Regional Administrator advises, within fifteen days of the advice of the intent to issue, that he objects to the issuance of the permits, the case will be forwarded to the Chief of Engineers in accordance with paragraph (s), below, for further coordination with the Administrator, EPA, and decision. The report forwarding the case will contain an analysis for a determination by the Secretary of the Army that there is no economically feasible method or site available other than that to which the Regional Administrator objects. (See also paragraphs (b) (7) and (b) (8) of this section.)

(18) *Activities in Coastal Zones and Marine Sanctuaries.* (i) Applications for Department of the Army authorizations for activities in the coastal zones of those States having a coastal zone management program approved by the Secretary of Commerce will be evaluated with respect to compliance with that program. No permit will be issued until the applicant has certified that his proposed activity complies with the coastal zone management program and the appropriate State agency has concurred with the certification or has waived its right to do so (see paragraph (i) (2) (ii) of this section); however, a permit may be issued if the Secretary of Commerce, on his own initiative or upon appeal by the applicant, finds that the proposed activity is consistent with the objectives of the Coastal Zone Management Act of 1972 or is otherwise necessary in the interest of national security.

(ii) Applications for Department of the Army authorization for activities in a marine sanctuary established by the Secretary of Commerce under authority of section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 will be evaluated for impact on the marine sanctuary. No permit will be issued until the applicant provides a certification from the Secretary of Commerce that the proposed activity is consistent with the purposes of Title III of the Marine Protection, Research and Sanctuaries Act of 1972 and can be carried out within the regulations promulgated by the Secretary of Commerce to control activities within the marine sanctuary. Authorizations so issued will contain such special conditions as may be required by the Secretary of Commerce in connection with his certification.

(h) *Applications for Authorizations.* (1) Any person proposing to undertake any activity requiring Department of the Army authorization as specified in paragraph (e) of this section, must apply for a permit to the District Engineer in charge of the District where the proposed activity is to be performed. Applications for permits must be prepared in accordance with instructions in the pamphlet entitled "Applications for Department of the Army Permits for Activities in Waterways" published by the Corps of Engineers, utilizing the prescribed application form (ENG Form 4345). The form and pamphlet may be obtained from the District Engineer having jurisdiction over the waterway in which the proposed activity will be located. Local variations of the application form for purposes of facilitating coordination with State and local agencies may be proposed by District or Division Engineers. These variations will be submitted for approval to DAEN–CWO–N and for clearance by the Office of Management and Budget.

(2) Generally, the application must include a complete description of the proposed activity, which includes necessary drawings, sketches or plans, the location, purpose and intended use of the proposed activity; scheduling of the activity; the names and addresses of adjoining property owners and the location and dimensions of adjacent structures; and the approvals required by other Federal, interstate, State or local agencies for the work, including all approvals or denials already made.

(i) If the activity involves dredging in navigable waters of the United States, the application must include a description of the type, composition and quantity of the material to be dredged, the method of dredging, and the site and plans for disposal of the dredged material.

(ii) If the activity includes the discharge of dredged or fill material in the navigable waters or the transportation of dredged material for the purpose of dumping it in the ocean waters, the application must include the source of the material, a description of the type, composition and quantity of the material, the method of transportaton and disposal of the material, and the location of the disposal site. Certification under section 401 of the Federal Water Pollution Control Act is required for such discharges into navigable waters. In addition, applicants for permits for these activities are required to pay a fee of $100 per application if the quantity of the material to be discharged in navigable waters or to be dumped in ocean waters exceeds 2500 cubic yards; if the quantity of material is 2500 cubic yards or less, the fee is $10 per application. Agencies or instrumentalities of Federal, State, or local governments will not be required to pay any fee in connection with applications for permits. This fee structure will be reviewed from time to time.

(iii) If the activity includes the construction of a fill or pile or float-supported platform, the project description must include specific structures to be erected on the fill or platform.

(iv) If the activity includes the construction of a structure the normal use of which may result in a discharge of pollutants, other than dredged or fill material, into navigable waters or ocean waters, the application must include either the identification of the application for the discharge permit assigned by the appropriate water pollution control agency or a copy of that application. Certification under Section 401 of the Federal Water Pollution Control Act is required for such discharges into navigable waters.

(v) If the activity will be located within a marine sanctuary established by the Secretary of Commerce, the application must include a copy of the certification from the Secretary of Commerce that the proposed activity is consistent with the purposes of Title III of the Marine Protection, Research and Sanctuaries Act of 1972 and can be carried out within the regulations promulgated by the Secretary of Commerce to control activities within the marine sanctuary.

(vi) If the activity requires the preparation of an environmental impact statement (see paragraphs (i) (1) (iv) and (1) of this section), which necessitates the development of data and information which will result in substantial expense to the United States, the District Engineer may, after obtaining written approval from the Division Engineer, charge the applicant for those extraordinary expenses incurred in the development of this information pursuant to 31 U.S.C. 483(a). All money so collected shall be paid into the Treasury of the United States as miscellaneous receipts. In lieu of this assessment, the District Engineer may require reports, data, and other information for the environmental impact statement (see paragraph (h) (3) of this section), to be compiled by an independent third party under contract with the applicant and furnished directly to the District Engineer; *Provided,* In such cases, the District En-

gineer shall specify the type of information to be developed; and *provided further*, That the information furnished by this third party contractor may not be used by the District Engineer to assist in his preparation of the environmental impact statement unless he has approved the selection of this third party contractor after consulting with interested Federal, State, and local agencies, public interest groups, and members of the general public, as he deems appropriate, to assure objectivity in this selection. In either case, the District Engineer should advise the applicant in writing that there is no assurance that favorable action will ultimately be taken on his application.

(3) In addition to that information indicated in paragraph (h) (2) of this section, the applicant will be required to furnish such additional information as the District Engineer may deem necessary to assist him in his evaluation of the application. Such additional information may include an environmental assessment, including information on alternate methods and sites, as may be necessary for the preparation of an environmental impact statement (see paragraph (l), below).

(4) The application must be signed by the person who desires to undertake the proposed activity; however, the application may be signed by a duly authorized agent if accompanied by a statement by that person designating the agent and agreeing to furnish, upon request, supplemental information in support of the application. In either case, the signature of the applicant will be understood to be an affirmation that he possesses the authority to undertake the activity proposed in his application, except where the lands are under the control of the Corps of Engineers, in which case the District Engineer will coordinate the transfer of the real estate and the permit action. When the application is submitted by an agent, the application may include the activity of more than one owner provided the character of the activity of each owner is similar and in the same general area.

(i) *Processing Applications for Permits*—(1) *Standard Procedures.* (i) When an application for a permit is received, the District Engineer shall immediately assign it a number for identification, acknowledge receipt thereof, and advise the applicant of the number assigned to it. He shall review the application for completeness and obtain from the applicant any additional information he deems necessary for further processing.

(ii) When all required information has been provided, the District Engineer will issue a public notice as described in paragraph (j) of this section unless specifically exempted by other provisions of this regulation. The notice will be distributed for posting in post offices or other appropriate public places in the vicinity of the site of the proposed work and will be sent to the applicant, to appropriate city and county officials, to adjoining property owners, to appropriate State agencies, to concerned Federal agencies, to local, regional and national shipping and other concerned business and conservation organizations, and to any other interested parties. If in the judgment of the District Engineer the proposal may result in substantial public interest, the public notice (without drawings) may be published for five consecutive days in the local newspaper, and the applicant shall reimburse the District Engineer for the costs of publication. Copies of public notices will be sent to all parties who have specifically requested copies of public notices, to the U.S. Senators and Representatives for the area where the work is to be performed, the Field Representative of the Secretary of the Interior, the Regional Director of the Bureau of Sport Fisheries and Wildlife, the Regional Director of the National Park Service, the Regional Administrator of the Environmental Protection Agency (EPA), the Regional Director of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration (NOAA), the head of the State agency responsible for fish and wildlife resources, the District Commander, U.S. Coast Guard, and the Office of the Chief of Engineers, Attention: DAEN-CWO-N.

(iii) The District Engineer shall consider all comments received in response to the public notice in his subsequent actions on the permit application. Receipt of the comments will be acknowledged and they will be made a part of the official file on the application. Comments received as form letters or petitions may be acknowledged as a group to the person or organization responsible for the form letter or petition. If comments relate to matters within the special expertise of another Federal agency, the District Engineer may seek the advice of that agency. The applicant must be given the opportunity to furnish the District Engineer his proposed resolution or rebuttal to all objections from Government agenciés and other substantive adverse comments before final decision will be made on the application.

(iv) The District Engineer will consider whether or not an environmental impact statement is necessary (see paragraph (l) of this section) at the earliest time during the processing of an application involving an activity which is not already subject to an environmental impact statement. This will be done when he can make an assessment of the environmental impact of a proposed activity, which in some cases may be upon receipt of the application due to the magnitude of the proposed project or the nature of the area involved. This will be reconsidered as additional information is developed; however, at the earliest time that it appears an environmental impact statement may be required, the District Engineer will require the applicant to furnish additional information and an analysis of the environmental impacts of the proposed action. A preliminary determination as to whether an environmental impact statement will be prepared or a statement that an environmental impact statement has already been prepared on the overall activity by the Corps of Engineers or another Federal agency, will be announced in the Public Notice (see paragraph (j) of this section). If the District Engineer determines that an environmental impact statement will not be prepared for the proposed activity, a finding to that effect will immediately be placed in the permit file and, if the public notice has indicated an intent to prepare a statement, will be announced to the public. This finding shall be dated and signed and shall include a brief statement of the facts and reasons for the decision. If the District Engineer believes that granting the permit may be warranted but that the proposed activity would significantly affect the quality of the human environment, he will prepare an environmental impact statement in accordance with § 209.410. In such cases and if a public hearing is to be held (see subparagraph (v), below), the proposed final environmental impact statement must be completed prior to the hearing. If a public meeting is held, however, the draft environmental impact statement will be filed with the Council on Environmental Quality (CEQ) at least 15 days prior to the meeting.

(v) If the proposed activity includes the discharge of dredged or fill material into navigable waters or the transportation of dredged material for the purpose of dumping it in ocean waters and a person or persons having an interest which may be affected by the issuance of a permit requests a hearing, or if a second State objects to issuance of a permit on the basis of water quality and requests a hearing, or if otherwise required by law or directed by the Chief of Engineers, the District Engineer will arrange a public hearing in accordance with applicable Corps of Engineers regulations (§ 209.133). If no public hearing is to be held and the District Engineer determines that public interest warrants and additional information necessary to the proper evaluation of the application would probably be obtained thereby, the District Engineer will hold a public meeting (see paragraph (k) of this section).

(vi) After all above actions have been completed, the District Engineer will determine in accordance with the record and applicable regulations whether or not the permit should be issued. If a permit is warranted, he will determine the conditions and duration which should be incorporated into the permit (see paragraphs (m) and (n) of this section). In accordance with the authorities specified in paragraph (p) of this section the District Engineer will take final action or forward the application with all pertinent comments, records, and studies, including the final environmental impact statement if prepared, and a statement of findings to support his recommendation, through channels to the official authorized to make the final decision. The report forwarding the application for decision will be in the format prescribed in paragraph (s) of this section. Notice that the application has been forwarded to higher headquarters will be furnished the applicant. When the final

decision is made, the statement of findings to support that decision will be placed in the permit file. If an environmental impact statement was filed with CEQ, a copy of the statement of findings will be submitted to DAEN–CWO–N for filing with CEQ. In those cases where an environmental impact statement has not been prepared but the application is forwarded for decision in the format prescribed in paragraph (s) of this section, the report will serve as the Statement of Findings.

(vii) If the final decision is to deny the permit, the applicant will be advised in writing of the reason for denial. If the final decision is to issue the permit, the issuing official will forward two copies of the draft permit to the applicant for signature accepting the conditions of the permit. The applicant will return both signed copies to the issuing officials who then signs and dates the permit. The permit is not valid until signed by the issuing official. Final action on the permit application is the signature on the letter notifying the applicant of the denial of his application or signature of the issuing official on the authorizing document.

(viii) The District Engineer will publish monthly a list of permits issued or denied during the previous month. The list will identify each action by public notice number, name of applicant, and brief description of activity involved. This list will be distributed to all persons who received any of the public notices listed.

(ix) If the applicant fails to respond within six months to any request or inquiry of the District Engineer, the District Engineer may advise the applicant by registered letter that his application will be considered as having been withdrawn unless the applicant responds thereto within thirty days of the date of the letter.

(2) *Procedures for Particular Types of Permit Situations.* (i) Activities requiring water quality certification:

(*a*) If water quality certification for the proposed activity is necessary under the provisions of the Federal Water Pollution Control Act, the District Engineer shall so notify the applicant and obtain from him either the appropriate certification or a copy of his application for such certification. The District Engineer shall forward one copy of the permit application to the appropriate certifying agency and two copies to the Regional Administrator of the Environmental Protection Agency (EPA). The District Engineer may issue the public notice of the application jointly with the certifying agency if arrangements for such joint notices have been approved by the Division Engineer. When the cerification is received a copy of the certification will be forwarded to the Regional Administrator of EPA who shall determine if the proposed activity may affect the quality of the waters of any State or States other than the State in which the work is to be performed. If he needs supplemental information in order to make this determination, the Regional Administrator may request it from the District Engineer who shall obtain it from the applicant and forward it to the Regional Administrator. The Regional Administrator shall, within thirty days of receipt of the application, certification and supplemental information, notify the affected State, the District Engineer, and the applicant in the event such a second State may be affected. The second State then has sixty days to advise the District Engineer that it objects to the issuance of the permit on the basis of the effect on the quality of its waters and to request a hearing.

(*b*) No authorization will be granted until required certification has been obtained or has been waived. Waiver is deemed to occur if the certifying agency fails or refuses to act on a request for certification within a reasonable period of time after receipt of such request. The request for certification must be made in accordance with the regulations of the certifying agency. In determining whether or not a waiver period has commenced, the District Engineer will verify that the certifying agency has received a valid request for certification. Three months shall generally be considered to be a reasonable period of time. If, however, special circumstances identified by the District Engineer require that action on an application be taken within a more limited period of time, the District Engineer shall determine a reasonable lesser period of time, advise the certifying agency of the need for action by a particular date and that, if certification is not received by that date, it will be considered that the requirement for certification has been waived. Similarly if it appears that circumstances may reasonably require a period of time longer than three months, the District Engineer may afford the certifying agency up to one year to provide the required certification before determining that a waiver has occurred. District Engineers shall check with the cetifying agency at the end of the allotted period of time before determining that a waiver has occurred.

(ii) If the proposed activity will be located in the coastal zone of a State, the District Engineer shall obtain from the applicant a certification that the activity conforms to the coastal zone management program of the State. Upon receipt of the certification, the District Engineer will forward a copy of the permit application and certification to the State agency responsible for implementing the coastal zone management program and request its concurrence or objection. The District Engineer can issue the public notice of the application jointly with the State agency if arrangements for such joint notices have been approved by the Division Engineer. A copy of the certification will also be sent, along with the public notice of the application to the Director, Office of Coastal Zone Management, NOAA, Department of Commerce, Rockville, Maryland 20852. If the State agency fails to concur or object to the certification within six months of receipt of the request, it will be presumed to waive its right to so act and the certification will be presumed to be valid. Before determining that a waiver has occurred, the District Engineer will check with the State agency to verify that it has failed to act. If the State agency objects to the proposed activity, the District Engineer will so advise the Director, Office of Coastal Zone Management, NOAA, and request advice within thirty days whether or not the Secretary of Commerce will review the objection. If the objection will not be reviewed, the permit will be denied. If, however, the Secretary of Commerce indicates he will review the objection, further action on the application will be held in abeyance pending notification of the results of the review. If the objection is sustained, the permit will be denied. If the objection is overruled by the Secretary's finding, however, the processing will be continued.

(iii) If the proposed activity involves any property listed in the National Register of Historic Places (which is published in its entirety in the Federal Register annually in February with addenda published each month), the District Engineer will determine if any aspect of the activity causes or may cause any change in the quality of the historical, architectural, archeological, or cultural character that qualified the property for listing in the National Register. Generally adverse effects occur under conditions which include but are not limited to destruction or alteration of all or part of the property; isolation from or alteration of its surrounding environment; and introduction of visual, audible, or atmospheric elements that are out of character with the property and its setting. If the District Engineer determines that the activity will have no effect on the property, he will proceed with the standard procedures for processing the application. If, however, the District Engineer determines that the activity will have an effect on the property, he will proceed in accordance with the procedures specified in the FEDERAL REGISTER, Volume 37, Number 220, November 14, 1972, pages 24146 to 24148.

(iv) If the proposed activity consists of the dredging of an access channel and/or berthing facility associated with an authorized Federal navigation project, the activity will be included in the planning and coordination of the construction or maintenance of the Federal project to the maximum extent feasible. Separate notice, meeting or hearing, and environmental impact statement will not be required for activities so included and coordinated; and the public notice issued by the District Engineer for these Federal and associated non-Federal activities will be the notice of intent to issue permits for those included non-Federal dredging activities required by paragraph (g) (17) (iv) of this section. The decision whether to issue or deny such a permit will be consistent with the decision on the Federal project unless special considerations applicable to the proposed activity are identified.

(v) In addition to the general distribution of public notices cited in paragraph (i)(1)(iv) of this section, notices will be sent to other addressees in appropriate cases as follows:

(*a*) If the activity involves structures or dredging along the shores of the sea or Great Lakes, to the Coastal Engineering Research Center, Washington, D.C. 20016.

(*b*) If the activity involves construction of fixed structures or artificial islands on the outer continental shelf or in the territorial seas, to the Deputy Assistant Secretary of Defense (Installations and Housing) Washington, D.C. 20310, the Director, Defense Mapping Agency, Hydrographic Center, Washington, D.C. 20390, Attention, Code N512, and the Director, National Ocean Survey, NOAA, Department of Commerce, Rockville, Maryland 20852.

(*c*) If the activity involves the construction of structures to enhance fish propagation along the Atlantic and Gulf coasts, to the Atlantic Estuarine Fisheries Center, National Marine Fisheries Service, NOAA, Department of Commerce, Beaufort, North Carolina 28416.

(*d*) If the activity involves the construction of structures which may affect aircraft operations or for purposes associated with seaplane operations, to the Regional Director of the Federal Aviation Administration.

(*e*) If the activity is in connection with a foreign-trade zone, to the Executive Secretary, Foreign-Trade Zones Board, Department of Commerce, Washington, D.C. 20230, and to the appropriate District Director of Customs as Resident Representative, Foreign-Trade Zones Board.

(vi) Copies of permits will be furnished to other agencies in appropriate cases as follows:

(*a*) If the activity involves the construction of structures or artificial islands on the outer continental shelf, to the Director, Defense Mapping Agency, Hydrographic Center, Washington, D.C. 20390. Attention, Code N512 and to the Director, National Ocean Survey, NOAA, Department of Commerce, Rockville, Maryland 20852.

(*b*) If the activity involves the construction of structures to enhance fish propagation (fish havens) along the coasts of the United States, to Defense Mapping Agency, Hydrographic Center and National Ocean Survey as in paragraph (i)(2)(vi)(*a*) of this section and to the Atlantic Estuarine Fisheries Center, National Marine Fisheries Service, NOAA, Department of Commerce, Beaufort, North Carolina 28416.

(*c*) If the activity involves the erection of an aerial transmission line across a navigable water of the United States, to the Director, National Ocean Survey, NOAA, Department of Commerce, Rockville, Maryland 20852, reference C322.

(*d*) If the activity is listed in paragraph (i)(2)(vi)(*a*), (*b*), or (*c*) of this section or involves the transportation of dredged material for the purpose of dumping it in ocean waters, to the appropriate District Commander, U.S. Coast Guard.

(vii) If the District Engineer determines that a letter or permission (see paragraph (m) of this section) is the appropriate form of authorization to be issued, he may omit the publishing of a public notice; however, he will coordinate the proposal with all concerned fish and wildlife agencies, Federal and State, as required by the Fish and Wildlife Coordination Act. A copy of the letter of permission will be sent to the Regional Director, Bureau of Sport Fisheries and Wildlife.

(viii) If the circumstances surrounding a permit application require emergency action and the District Engineer considers that the public interest requires that the standard procedures must be abbreviated in the particular case, he will explain the circumstances and recommend special procedures to the Chief of Engineers, ATTN: DAEN-CWO-N by teletype. The Chief of Engineers, upon consultation with the Secretary of the Army or his authorized representative and other affected agencies, will instruct the District Engineer as to further processing of the application.

(3) *Timing of Processing of Applications.* In view of the extensive coordination with other agencies and the public and the study of all aspects of proposed activities required by the above procedures, applicants must allow adequate time for the processing of their applications. The District Engineer will be guided by the following time limits for the indicated steps in processing permit applications:

(i) Public notice should be issued within fifteen days of receipt of all required information from the applicant, unless joint notice with State agencies is to be used.

(ii) The receipt of comments as a result of the public notice should not extend beyond seventy-five days from the date of the notice.

(iii) The record of a public meeting should be closed not later than fifteen days after the meeting.

(iv) The District Engineer should either send notice of denial to the applicant, or issue the draft permit to the applicant for acceptance and signature, or forward the application to higher headquarters within thirty days of one of the following whichever is latest: receipt of notice of withdrawal of objections; completion of coordination following receipt of applicant's rebuttal of objections; receipt of the record of a public hearing; closing of the record of a public meeting; or expiration of the waiting period following the filing of the final environmental impact statement with CEQ.

(j) *Public Notice and Coordination with Interested Parties.* (1) The Public Notice is the primary method of advising all interested parties of the proposed activity for which a permit is sought and of soliciting comments and information necessary to evaluate the probable impact on the public interest. The notice must, therefore, include sufficient information to give a clear understanding of the nature of the activity to generate meaningful comments. The notice should include the following items of information:

(i) The name and address of the applicant;

(ii) The location of the proposed activity;

(iii) A brief description of the proposed activity, its purpose and intended use, including a description of the type of structures, if any, to be erected on fills, or pile or float-supported platforms, and a description of the type, composition and quantity of materials to be discharged or dumped and means of conveyance;

(iv) A plan and elevation drawing showing the general and specific site location and character of all proposed activities, including the size relationship of the proposed structures to the size of the impacted waterway and depth of water in the area;

(v) A list of other government authorizations obtained or requested, including required certifications relative to water quality, coastal zone management, or marine sanctuaries;

(vi) A statement concerning a preliminary determination of the need for and/or availability of an environmental impact statement;

(vii) Any other available information which may assist interested parties in evaluating the likely impact of the proposed activity, if any, on factors affecting the public interest, including environmental values;

(viii) A reasonable period of time, normally thirty days but not less than fifteen days from date of mailing, within which interested parties may express their views concerning the permit application; and

(ix) A paragraph describing the various factors on which decisions are based during evaluation of a permit application.

(*a*) Except as provided in paragraph (j)(1)(ix)(*b*) of this section the following will be included:

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use classification, navigation, recreation, water supply, water quality and, in general, the needs and welfare of the people. No permit will be granted unless its issuance is found to be in the public interest.

(*1*) If a Federal agency other than the Corps of Engineers has primary responsibility for licensing an activity and for environmental review as contemplated by the provisions of the National Environmental Policy Act, (see paragraph

(e)(3) of this section), the public notice shall, in lieu of the general paragraph above, describe the actions and reviews pending before those agencies, recite the fact that District Engineers will consult with, and give due consideration to the findings of, those agencies, and provide the following paragraph: "The decision whether to issue a permit will based on a consideration of the effect which the proposed activity will have on the navigable capacity of the waterway." (See particularly paragraphs (g)(13), (g)(15), and (g)(16) of this section.)

(2) If the activity involves the discharge of dredged or fill material into the navigable waters or the transportation of dredged material for the purpose of dumping it in ocean waters, the public notice shall also indicate that the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, EPA, under authority of section 404(b) of the Federal Water Pollution Control Act or of the criteria established under authority of section 102(a) of the Marine Protection, Research and Sanctuaries Act of 1972 as appropriate.

(b) In cases involving construction of fixed structures or artificial islands on outer continental shelf lands which are under mineral lease from the Department of the Interior, the notice will contain the following statement: "The decision as to whether a permit will be issued will be based on an evaluation of the impact of the proposed work on navigation and national security."

(x) If the activity includes the discharge of dredged or fill material in the navigable waters or the transportation of dredged material for the purpose of dumping it in ocean waters, the following statement will also be included in the public notice:

Any person who has an interest which may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer within thirty days of the date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity.

(2) It is presumed that all interested parties and agencies will wish to respond to public notices; therefore, a lack of response will be interpreted as meaning that there is no objection to the application. A copy of the public notice with the list of the addresses to whom the notice was sent will be included in the record. If a question develops with respect to an activity for which another agency has responsibility and that other agency has not responded to the public notice, the District Engineer may request their comments. Whenever a response to a public notice has been received from a member of Congress, either in behalf of a constituent or himself, the District Engineer will inform the member of Congress of the final decision.

(3) Notices sent to several agencies within the same State may result in conflicting comments from those agencies. While many States have designated a single State agency or individual to provide a single and coordinated State position regarding pending permit applications, where a State has not so designated a single source, District Engineers will elicit from the Governor an expression of his views and desires concerning the application. Where coordination is required by the Fish and Wildlife Coordination Act (see paragraph (c)(5) of this section), District Engineers will address a letter to the designated single Sate agency or Governor, as appropriate, inviting attention to the coordination requirements of the Fish and Wildlife Coordination Act and requesting that a report from the head of the State agency responsible for fish and wildlife resources be appended to the coordinated State report.

(k) *Public Meetings.* (1) It is the policy of the Corps of Engineers to conduct the civil works program in an atmosphere of public understanding, trust, mutual cooperation, and in a manner responsive to the public interest. The views of all concerned persons are initially sought by means of public notices in connection with applications for permits. Where response to a notice indicates further opportunity for public expressions of interest may be warranted, and a public hearing is not required by law or directed by the Chief of Engineers, the District Engineer may hold a public meeting.

(2) A public meeting is a forum at which all concerned persons are given an opportunity to present additional information relevant to a proper evaluation of an application for a permit for an activity. If a public meeting is held, notice announcing the meeting will be published at least thirty days in advance of the meeting. A summary of environmental considerations will be included in the notice. The applicant will be given an opportunity to present his proposal and explain why he thinks it is in the public interest. Officials of other Federal agencies or of State and local governments will be given opportunity to express their views, as well all other persons. The conduct of the meeting will be in accordance with § 209.405 and a transcript of the meeting will be part of the record.

(l) *Environmental Impact Statement.* (1) Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) requires all Federal agencies, with respect to major Federal actions significantly affecting the quality of the human environment, to submit to CEQ a detailed statement on:

(i) The environmental impact of the proposed action;

(ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented;

(iii) Alternatives to the proposed action;

(iv) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

(v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(2) As indicated in paragraph (i)(1)(iv) of this section the District Engineer must determine whether an environmental impact statement is required in connection with a permit application. If the District Engineer believes that granting the permit may be warranted but that the proposed activity would have a significant environmental impact, an environmental impact statement will be prepared, coordinated and filed in accordance with provisions of § 209.410 prior to final action on the application. If another agency is the lead agency as defined by section 5b of the CEQ guidelines contained in § 209.410, the District Engineer will coordinate with that agency to insure that the resulting environmental impact statement adequately describes the impact of the activity which is subject to Corps permit authority.

(3) The scope of the considerations to be discussed in an environmental impact statement depends heavily on continuing court interpretation of NEPA and on the nature of the activity for which authorization is requested.

(i) All the direct effects of the activity must be evaluated, as must any indirect effects which have a clear or proximate relationship to the activity. Other effects, however, may be too speculative or remote to merit detailed consideration. Thus an environmental impact statement which examines the probable environmental impact of an activity should evaluate all known effects which have a direct or proximate but indirect relationship to the proposal and should cite other remote or speculative effects.

(ii) The scope of the environmental impact statement is often somewhat different from that of the laws under which the activity may be authorized. Thus, an authorization may be only for a part of a much larger and more complex operation or development over which few regulatory controls exist. In such cases, the range of factors to be discussed in the environmental impact statement may of necessity be expanded to include factors which are beyond the normal scope of the law on which the authorization depends.

(m) *Forms of Authorization.* (1) The basic form for authorizing activities in navigable waters or ocean waters is ENG Form 1721, Department of the Army Permit (Appendix C). This form will be used to authorize activities under provisions of:

(i) Section 10 of the River and Harbor Act of March 3, 1899, in all cases where a letter of permission is not appropriate (see paragraph m(3) of this section.)

(ii) Section 404 of the Federal Water Pollution Control Act.

(iii) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1973.

(2) While the general conditions included in ENG Form 1721 are normally applicable to all permits, some may not

apply to certain authorizations (e.g. after-the-fact situations where work is completed, or situations in which the permittee is a Federal agency) and may be deleted by the issuing officer. Special conditions applicable to the specific activity will be included in the permit as necessary to protect the public interest in the navigable waters or ocean waters.

(3) In those cases subject to section 10 of the River and Harbor Act of March 3, 1899, in which, in the opinion of the District Engineer, the proposed work is minor, will not have significant impact on environmental values, and should encounter no opposition, the District Engineer may use the abbreviated processing procedures of paragraph (i)(2)(vii) of this section and authorize the work by a letter of permission. The letter of permission will not be used to authorize the discharge of dredged or fill material into navigable waters or the transportation of dredged material for purpose of dumping it in ocean waters. The letter of permission will be in letter form and will identify the permittee, the authorized work and location of the work, the statutory authority (i.e., 33 U.S.C. 403), any limitations on the work, a construction time limit and a requirement for a report of completed work. A copy of the general conditions from ENG form 1721 will be attached and will be incorporated by reference into the letter of permission.

(4) Permits for structures under section 9 of the Act of March 3, 1899, will be drafted during review procedures at Department of the Army level.

(n) *Duration of Authorizations.* (1) Authorizations for activities in or affecting navigable waters or ocean waters may authorize both the work and the resulting structure. Authorizations continue in effect until they automatically expire, or are modified, suspended, or revoked.

(2) Authorization for the existence of a structure or other form of alteration of the waterway is usually for an indefinite duration with no expiration date cited. However, where a temporary structure is authorized, or where restoration of a waterway is contemplated, the authorzation will be of limited duration with a definite expiration date. Except as provided in paragraph (r)(5) of this section permits for the discharge of dredged material in the navigable waters or for the transportation of dredged material for the purpose of dumping it in ocean waters will be of limited duration with a definite expiration date.

(3) Authorizations for construction work or other activity will specify time limits for accomplishing the work or activity. The time limits will specify a date by which the work must be started, normally one year from the date of issuance, and a date by which the work must be completed. The dates will be established by the issuing official and will provide reasonable times based on the scope and nature of the work involved. An authorization for work or other activity will automatically expire if the permittee fails to request an extension or revalidation.

(4) Extensions of time may be granted by the District Engineer for authorizations of limited duration, or for the time limitations imposed for starting or completing the work or activity. The permittee must request the extension and explain the basis of the request, which will be granted only if the District Engineer determines that an extension is in the general public interest. Requests for extensions will be procesed in acordance with the regular procedures of paragraph (i) of this section including issuance of a public notice, except that such processing is not required where the District Engineer determines that there have been no significant changes in the attendant circumstances since the authorization was issued and that the work is proceeding essentially in accordance with the approved plans and conditions.

(5) If the authorized work includes periodic maintenance dredging (see paragraph (g)(2) of this section), an expiration date for the authorization of that maintenance dredging will be included in the permit. The expiration date, which in no event is to exceed ten years from the date of issuance of the permit, will be established by the issuing official after his evaluation of the proposed method of dredging and disposal of the dredged material. If the permittee desires to continue maintenance dredging beyond the expiration date, he must request a revalidation of that portion of his permit which authorized the maintenance dredging. The request must be made to the District Engineer six months prior to the expiration date, and include full description of the proposed methods of dredging and disposal of dredged materials. The District Engineer will process the request for revalidation in accordance with the standard procedures in paragraph (h) of this section including the issuance of a public notice describing the authorized work to be maintained and the proposed methods of maintenance.

(o) *Modification, Suspension or Revocation of Authorizations.* (1) The District Engineer may evaluate the circumstance and conditions of a permit either on his own motion or as the result of periodic progress inspections, and initiate action to modify, suspend, or revoke a permit as may be made necessary by considerations of the general public interest. Among the factors to be considered are the extent of the permittee's compliance with the terms and conditions of the permit; whether or not circumstances relating to the activity authorized have changed since the permit was issued, extended or revalidated, and the continuing adequacy of the permit conditions; any significant objections to the activity authorized by the permit which were not earlier considered; and the extent to which modification, suspension, or other action would adversely affect plans, investments and actions the permittee has reasonably made or taken in reliance on the permit. Significant increases in scope of a permitted activity will be processed as new applications for permits in accordance with paragraph (i) of this section, and not as modifications under this paragraph.

(2) The District Engineer, as a result of revaluation of the circumstances and conditions of a permit, may determine that protection of the general public interest requires a modification of the terms or conditions of the permit. In such cases, the District Engineer will hold informal consultations with the permittee to ascertain whether the terms and conditions can be modified by mutual agreement. If a mutual agreement is reached on modification of the terms and conditions of the permit, the District Engineer will give the permittee written notice of the modification, which will then become effective on such date as the District Engineer may establish, which in no event shall be less than ten days from its date of issuance. In the event a mutual agreement cannot be reached by the District Engineer and the permittee, the District Engineer will proceed in accordance with paragraph (o)(3) of this section if immediate suspension is warranted. In cases where immediate suspension is not warranted but the District Engineer determines that the permit should be modified, he will notify the permittee of the proposed modification and reasons therefor, and that he may request a hearing. The modification will become effective on the date set by the District Engineer which shall be at least ten days after receipt of the notice unless a hearing is requested within that period in accordance with § 209.133. If the permittee fails or refuses to comply with the modification the District Engineer will immediately refer the case for enforcement to DAEN-GCK.

(3) The District Engineer may, after telephonic consultation with the Division Engineer, suspend a permit after preparing a written determination and finding that immediate suspension would be in the general public interest. The District Engineer will notify the permittee in writing by the most expeditious means available that the permit has been suspended with the reasons therefor, and order the permittee to stop all previously authorized activities. The permittee will also be advised that following this suspension a decision will be made to either reinstate, modify, or revoke the permit, and that he may request a hearing within 10 days of receipt of notice of the suspension to present information in this matter. If a hearing is requested the procedures prescribed in § 209.133 will be followed. After the completion of the hearing (or within a reasonable period of time after issuance of the notice to the permittee that the permit has been suspended if no hearing is requested) the District Engineer will take action to reinstate the permit, modify the permit, or recommend revocation of the permit in accordance with paragraph (o)(4) of this section.

(4) Following completion of the suspension procedures in paragraph (o)(3) of this section, if revocation of the permit is recommended, the District Engineer will prepare a report of the circumstances and forward it together with the

record of the suspension proceedings to DAEN-CWO-N. The Chief of Engineers may, prior to deciding whether or not to revoke the permit, afford the permittee the opportunity to present any additional information not made available to the District Engineer at the time he made the recommendation to revoke the permit including, where appropriate, the means by which he intends to comply with the terms and conditions of the permit. The permittee will be advised in writing of the final decision.

(p) *Authority to Issue or Deny Authorizations.* Except as otherwise provided in this regulation, the Secretary of the Army subject to such conditions as he or his authorized representative may from time to time impose, has authorized the Chief of Engineers and his authorized representatives to issue or deny authorizations for construction or other work in or affecting navigable waters of the United States pursuant to sections 10 and 14 of the Act of March 3, 1899, and section 1 of the Act of June 13, 1902. He also has authorized the Chief of Engineers and his authorized representatives to issue or deny authorizations for the discharge of dredged or fill material in the navigable waters pursuant to section 404 of the Federal Water Pollution Control Act or for the transportation of dredged material for the purpose of dumping it into ocean waters pursuant to section 103 of Marine Protection, Research and Sanctuaries Act of 1972. The authority to issue or deny permits pursuant to section 9 of the River and Harbor Act of March 3, 1899 has not been delegated to the Chief of Engineers or his authorized representatives.

(1) District Engineers are authorized to issue in accordance with this regulation permits and letters of permission which are subject to such special conditions as are necessary to protect the public interest in the navigable waters or ocean waters pursuant to sections 10 and 14 of the River and Harbor Act of March 3, 1899, section 1 of the River and Harbor Act of June 13, 1902, section 404 of the Federal Water Pollution Control Act, and section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, in all cases in which there are no known substantive objections to the proposed work or activity or in which objections have been resolved to the satisfaction of the District Engineer. It is essential to the legality of a permit that it contain the name of the District Engineer as the issuing officer. However, the permit need not be signed by the District Engineer, in person; but may be signed for and in behalf of him by whomever he designates. District Engineers are authorized to deny permits when required State or local authorization and/or certification has been denied (see paragraph (f)(3)(i) of this section), when a State has objected to a required certification of compliance with its coastal zone management program and the Secretary of Commerce has not reviewed the action and reached a contrary finding (see paragraph (g)(18) and (i)(2)(ii) of this section) or when the proposed work will unduly interfere with navigation. All other permit applications including those cases in paragraph (p)(2)(i) through (vii) of this section will be referred to Division Engineers. District Engineers are also authorized to add, modify, or delete special conditions in permits, except for those conditions which have been imposed by higher authority, and to suspend permits according to the procedures of paragraph (o)(3) of this section.

(2) Division Engineers will review, attempt to resolve outstanding matters, and evaluate all permit applications referred by District Engineers. Division Engineers may authorize the issuance or denial of permits pursuant to sections 10 and 14 of the River and Harbor Act of March 3, 1899, section 1 of the River and Harbor Act of June 13, 1902, section 404 of the Federal Water Pollution Control Act, and section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 and the inclusion of conditions to those permits as may be necessary to protect the public interest in the navigable waters or ocean waters in accordance with the policies cited in this regulation.

(i) Except as provided in paragraph (p)(2)(ii) of this section if the Division Engineer determines that issuance of a permit with or without conditions is in the public interest, but there is continuing objection to the issuance of the permit by another Federal agency, he shall advise the regional representative of that Federal agency of his intent to issue the permit. The Division Engineer shall not proceed with the issuance of a permit if, within 15 days after the date of this notice of intent to issue a permit, an authorized representative of that Federal Agency indicates to the Division Engineer in writing that he wishes to bring his concerns to Departmental level. In such cases, the proposed permit may be issued at the expiration of 30 days from the date of receipt of the letter from such representative unless, prior to that time, as a result of consultations at Departmental level, it is directed that the matter be forwarded to higher authority for resolution. Thereafter, a permit will be issued only pursuant to and in accordance with instructions from such higher authority. Every effort should be made to resolve differences at the Division Engineer level before referring the matter to higher authority.

(ii) Division Engineers will refer to the Chief of Engineers the following cases:

(*a*) When it is proposed to issue a permit and there are unresolved objections from another Federal agency which must be handled under special procedures specified in statutes or Memoranda of Understanding which thereby preclude final resolution by the Division Engineer (see paragraphs (g)(4), (5) and (17) of this section);

(*b*) When the recommended decision is contrary to the stated position of the Governor of the affected State or of a member of Congress;

(*c*) When there is substantial doubt as to authority, law, regulations, or policies applicable to the proposed activity;

(*d*) When higher authority requests the case be forwarded for decision;

(*e*) Where the case is recognized to be highly controversial, or litigation is anticipated;

(*f*) When the proposed activity would affect the baseline used for determination of the limits of the territorial sea.

Division Engineers may also authorize the modification or suspension of permits in accordance with the procedures of this regulation, and may recommend revocation of permits to the Chief of Engineers.

(q) *Supervision and Enforcement.* (1) District Engineers will supervise all authorized activities and will require that the activity be conducted and executed in conformance with the approved plans and other conditions of the permit. Inspections must be made on timely occasions during performance of the activity and appropriate notices and instructions will be given permittees to insure that they do not depart from the approved plans. Revaluation of permits to assure complaince with its purposes and conditions will be carried out as provided in paragraph (o) of this section. If there are approved material departures from the authorized plans, the District Engineer will require the permittee to furnish corrected plans showing the activity as actually performed.

(2) Where the District Engineer determines that there has been noncompliance with the terms or conditions of a permit, he should first contact the permittee and attempt to resolve the problem. If a mutually agreeable resolution cannot be reached, a written demand for compliance will be made. If the permittee has not agreed to comply within 5 days of receipt of the demand, the District Engineer will issue an immediately effective notice of suspension in accordance with paragraph (o)(3) of this section above, and consider initiation of appropriate legal action.

(3) For purposes of supervision of permitted activities and for surveillance of the navigable waters for enforcement of the permit authorities cited in paragraph (b) of this section, the District Engineer will use all means at his disposal. One method of surveillance for unauthorized activities which should be used where appropriate is aerial photographic reconnaissance. In addition, all Corps of Engineers employees will be instructed to observe and report all activities in navigable waters which would require permits. The assistance of members of the public and personnel of other interested Federal, State and local agencies to observe and report such activities will be encouraged. To facilitate this surveillance, the District Engineer will require a copy of ENG Form 4336 to be posted conspicuously at the site of all authorized activities and will make available to all interested persons information on the scope of authorized activities and the conditions prescribed in the authorizations. Furthermore, significant actions taken under paragraph (o), above, will be brought to the attention of those Federal, State and local agencies and

other persons who express particular interest in the affected activity. Surveillance in ocean waters will be accomplished primarily by the Coast Guard pursuant to section 107(c) of the Marine Protection, Research and Sanctuaries Act of 1973. Enforcement actions relative to the permit authorities cited in paragraph (b) of this section, including enforcement actions resulting from noncompliance with permit conditions, will be in accordance with regulations published at § 209.170 (ER 1145-2-301).

(4) The expenses incurred in connection with the inspection of permitted activity in navigable waters normally will be paid by the Federal Government in accordance with the provisions of Section 6 of the River and Harbor Act of 3 March 1905 (33 U.S.C. 417) unless daily supervision or other unusual expenses are involved. In such unusual cases, and after approval by the Division Engineer, the permittee will be required to bear the expense of inspections in accordance with the conditions of his permit; however, the permittee will not be required or permitted to pay the United States inspector either directly or through the District Engineer. The inspector will be paid on regular payrolls or service vouchers. The District Engineer will collect the cost from the permittee in accordance with the following:

(i) At the end of each month the amount chargeable for the cost of inspection pertaining to the permit will be collected from the permittee and will be taken up on the statement of accountability and deposited in a designated depository to the credit of the Treasurer of the United States, on account of reimbursement of the appropriation from which the expenses of the inspection were paid.

(ii) If the District Engineer considers such a procedure necessary to insure the United States against loss through possible failure of the permittee to supply the necessary funds in accordance with paragraph (q)(4)(i) of this section, he may require the permittee to keep on deposit with the District Engineer at all times an amount equal to the estimated cost of inspection and supervision for the ensuing month, such deposit preferably being in the form of a certified check, payable to the order of Treasurer of the United States. Certified checks so deposited will be carried in a special deposit account (guaranty for inspection expenses) and upon completion of the work under the permit the funds will be returned to the permittee provided he has paid the actual cost of inspection.

(iii) On completion of work under a permit, and the payment of expenses by the permittee without protest, the account will be closed, and outstanding deposits returned to the permittee. If the account is protested by the permittee, it will be referred to the Division Engineer for approval before it is closed and before any deposits are returned to the permittee.

(5) If the permitted activity includes restoration of the waterway to its original condition, or if the issuing official has reason to consider that the permittee might be prevented from completing work which is necessary to protect the public interest in the waterway, he may require the permittee to post a bond of sufficient amount to indemnify the government against any loss as a result of corrective action it might take.

(r) *Publicity.* District Engineer will establish and maintain a program to assure that potential applicants for permits are informed of the requirements of this regulation and of the steps required to obtain permits for activities in navigable waters or ocean waters. Whenever the District Engineer becomes aware of plans being developed by either private or public entities who might require permits in order to implement the plans, he will advise the potential applicant in writing of the statutory requirements and the provisions of this regulation. Similarly when the District Engineer is aware of changes in Corps of Engineers regulatory jurisdiction he will issue appropriate public notices.

(s) *Reports.* The report of a District Engineer on an application for a permit requiring action by the Division Engineer or by the Chief of Engineers will be in a letter form with the application and all pertinent comments, records and studies including the final environmental impact statement if prepared, as inclosures. The following items will be included or discussed in the report:

(1) Name of applicant.

(2) Location, Character and purpose of proposed activity.

(3) Applicable statutory authorities and administrative determinations conferring Corps of Engineers regulatory jurisdiction.

(4) Other Federal, State, and local authorizations obtained or required and pending.

(5) Date of public notice and public meeting or public hearings, if held, and summary of objections offered with comments of the District Engineer thereon. The comments should explain the objections and not merely refer to inclosed letters.

(6) Views of State and local authorities.

(7) Views of District Engineer concerning probable effect of the proposed work on:

(i) Navigation, present and prospective.

(ii) Harbor lines, if established.

(iii) Flood heights, drift and flood damage protection.

(iv) Beach erosion or accretion.

(v) Conservation.

(vi) Fish and Wildlife.

(vii) Water Quality.

(viii) Aesthetics.

(ix) Ecology (General Environmental Concerns).

(x) Historic values.

(xi) Recreation.

(xii) Economy.

(xiii) Water supply.

(xiv) Land use classification and coastal zone management plans.

(xv) Public Interest (Needs and Welfare of the People).

(8) Other pertinent remarks, including:

(i) Extent of public and private need;

(ii) Desirability of using appropriate alternatives;

(iii) Extent and permanence of beneficial and/or detrimental effects; and

(iv) Probable impact in relation to cumulative effects created by other activities.

(9) A copy of the environmental assessment and summary of the environmental impact statement if prepared.

(10) A Statement of Findings as an inclosure.

(11) Conclusions.

(12) Recommendations including any proposed special conditions.

APPENDIX A—U.S. COAST GUARD/CHIEF OF ENGINEERS MEMORANDUM OF AGREEMENT

1. *Purpose and Authority:* A. The Department of Transportation Act, the Act of October 15, 1966, P.L. 89-670, transferred to and vested in the Secretary of Transportation certain functions, powers and duties previously vested in the Secretary of the Army and the Chief of Engineers. By delegation of authority from the Secretary of Transportation (49 CFR 1.46(c)) the Commandant, U.S. Coast Guard, has been authorized to exercise certain of these functions, powers and duties relating to bridges and causeways conferred by:

(1) the following provision of law relating generally to drawbridge operating regulations: Section 5 of the Act of August 18, 1894, as amended (28 Stat. 362; 33 U.S.C. 499);

(2) the following law relating generally to obstructive bridges: The Act of June 21, 1940, as amended (The Truman-Hobbs Act) (54 Stat. 497; 33 U.S.C. 511 et seq.);

(3) the following laws and provisions of law to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States:

(a) Section 9 of the Act of March 3, 1899, as amended (30 Stat. 1151; 33 U.S.C. 401);

(b) The Act of March 23, 1906, as amended (34 Stat. 84; 33 U.S.C. 491 et seq.); and

(c) The General Bridge Act of 1946, as amended (60 Stat. 847; 33 U.S.C. 525 et seq.) except Sections 502(c) and 503.

B. The Secretary of the Army and The Chief of Engineers continue to be vested with broad and important authorities and responsibilities with respect to navigable waters of the United States, including, but not limited to, jurisdiction over excavation and filling, design flood flows and construction of certain structures in such waters, and the prosecution of waterway improvement projects.

C. The purposes of this agreement are: (1) To recognize the common and mutual interest of the Chief of Engineers and the Commandant, U.S. Coast Guard, in the orderly and efficient administration of their respective responsibilities under certain Federal statutes to regulate certain activities in navigable waters of the United States;

(2) To clarify the areas of jurisdiction and the responsibilities of the Corps of Engineers and the Coast Guard with respect to:

(a) the alteration of bridges

(1) in connection with Corps of Engineers waterway improvement projects, and

(2) under the Truman-Hobbs Act;

(b) the construction, operation and maintenance of bridges and causeways as distinguished from other types of structures over or in navigable waters of the United States;

(c) the closure of waterways and the restruction of passage through or under bridges in connection with their construction, operation, maintenance and removal; and

(d) the selection of an appropriate design flood flow for flood hazard analysis of any proposed water opening.

(3) To provide for coordination and consultation on projects and activities in or affecting the navigable waters of the United States.

In furtherance of the above purposes the undersigned do agree upon the definitions, policies and procedures set forth below.

2. *Alteration of Bridges in or Across Navigable Waters Within Corps of Engineers Projects:* A. The Chief of Engineers agrees to advise and consult with the Commandant on navigation projects contemplated by the Corps of Engineers which require the alteration of bridges across the waterways involved in such projects. The Chief of Engineers also agrees to include in such project proposals the costs of alterations, exclusive of betterments, of all bridges within the limits of the designated project which after consultation with the Commandant he determines to require alteration to meet the needs of existing and prospective navigation. Under this concept the federal costs would be furnished under the project.

B. The Commandant of the Coast Guard agrees to undertake all actions and assumes all responsibilities essential to the determination of navigational requirements for horizontal and vertical clearances of bridges across navigable waters necessary in connection with any navigation project by the Chief of Engineers. Further, the Commandant agrees to conduct all public proceedings necessary thereto and establish guide clearance criteria where needed for the project objectives.

3. *Alteration of Bridges Under the Truman-Hobbs Act:* The Commandant of the Coast Guard acknowledges and affirms the responsibility of the Coast Guard, under the Truman-Hobbs Act, to program and fund for the alteration of bridges which, as distinct from project related alterations described in paragraph 2 herein, become unreasonable obstructions to navigation as a result of factors or changes in the character of navigation and this agreement shall in no way affect, impair or modify the powers or duties conferred by that Act.

4. *Approval, Alteration and Removal of Other Bridges and Causeways:* A. *General Definitions.* For purposes of this Agreement and the administration of the statutes cited in 1.A.(3) above, a "bridge" is any structure over, on or in the navigable waters of the United States which (1) is used for the passage or conveyance of persons, vehicles, commodities and other physical matter and (2) is constructed in such a manner that either the horizontal or vertical clearance, or both, may affect the passage of vessels or boats through or under the structure. This definition includes, but is not limited to, highway bridges, railroad bridges, foot bridges, aqueducts, aerial tramways and conveyors, overhead pipelines and similar structures of like function together with their approaches, fenders, pier protection systems, appurtenances and foundations. This definition does not include aerial power transmission lines, tunnels, submerged pipelines and cables, dams, dikes, dredging and filling in, wharves, piers, breakwaters, bulkheads, jetties and similar structures and works (except as they may be integral features of a bridge and used in its construction, maintenance, operation or removal; or except when they are affixed to the bridge and will have an effect on the clearances provided by the bridge) over which jurisdiction remains with the Department of the Army and the Corps of Engineers under Sections 9 and 10 of the Act of March 3, 1899, as amended (33 U.S.C. 401 and 403). A "causeway" is a raised road across water or marshy land, with the water or marshy land on both sides of the road, and which is constructed in or affects navigation, navigable waters and design flood flows.

B. *Combined Structures and Appurtenances.* For purposes of the Act cited in 1.A.(3) above, a structure serving more than one purpose and having characteristics of either a bridge or causeway, as defined in 4.A., and some other structure, shall be considered as a bridge or causeway when the structure in its entirety, including its appurtenances and incidental features, has or retains the predominant characteristics and purpose of a bridge or causeway. A structure shall not be considered a bridge or causeway when its primary and predominant characteristics and purpose are other than those set forth above and it meets the general definitions above only in a narrow technical sense as a result of incidental features. This interpretation is intended to minimize the number of instances which will require an applicant for a single project to secure a permit or series of permits from both the Department of Transportation and the Department of the Army for each separate feature or detail of the project when it serves, incidentally to its primary purpose, more than one purpose and has features of either a bridge or causeway and features of some other structure. However, if parts of the project are separable and can be fairly and reasonably characterized or classified in an engineering sense as separate structures, each such structure will be so treated and considered for approval by the agency having jurisdiction thereover.

C. *Altertaion of the Character of Bridges and Causeways.* The jurisdiction of the Secretary of Transportation and the Coast Guard over bridges and causeways includes authority to approve the removal of such structures when the owners thereof desire to discontinue their use. If the owner of a bridge or causeway discontinues its use and wishes to remove or alter any part thereof in such a manner that it will lose its character as a bridge or causeway, the Coast Guard will normally require removal of the structure from the waterway in its entirety. However, if the owner of a bridge or a causeway wishes to retain it in whole or in part for use other than for operation and maintenance as a bridge or causeway, the proposed structure will be considered as coming within the jurisdiction of the Corps of Engineers. The Coast Guard will refer requests for such uses to the Corps of Engineers for consideration. The Corps of Engineers agrees to advise the Commandant of the receipt of an application for approval of the conversion of a bridge or causeway to another structure and to provide opportunity for comment thereon. If the Corps of Engineers approves the conversion of a bridge or causeway to another structure, no residual jurisdiction over the structure will remain with the Coast Guard. However, if the Corps of Engineers does not approve the proposed conversion, then the structure remains a bridge subject to the jurisdiction of the Coast Guard.

5. *Closure of Waterways and Restriction of Passage through or under Bridges:* Under the statutes cited in Section 1 of this Memorandum of Agreement, the Commandant must approve the clearances to be made available for navigation through or under bridges. It is understood that this duty and authority extends to and may be exercised in connection with the construction, alteration, operation, maintenance and removal of bridges, and includes the power to authorize the temporary restriction of passage through or under a bridge by use of falsework, piling, floating equipment, closure of draws, or any works or activities which temporarily reduce the navigation clearances and design flood flows, including closure of any or all spans of the bridge. Moreover, under the Ports and Waterways Safety Act of 1972, Public Law 92-340, 86 Stat. 424, the Commandant exercises broad powers in waterways to control vessel traffic in areas he determines to be especially hazardous and to establish safety zones or other measures for limited controls or conditional access and activity when necessary to prevent damage to or the destruction or loss of, any vessel, bridge, or other structure on or in the navigable waters of the United States. Accordingly, in the event that work in connection with the construction, alteration or repair of a bridge or causeway is of such a nature that for the protection of life and property navigation through or in the vicinity of the bridge or causeway must be temporarily prohibited, the Coast Guard may close that part of the affected waterway while such work is being performed. However, it is also clear that the Secretary of the Army and the Chief of Engineers have the authority, under Section 4 of the Act of August 18, 1894, as amended, (33 U.S.C. 1) to prescribe rules for the use, administration and navigation of the navigable waters of the United States. In recognition of that authority, and pursuant to Section 102 (c) of the Ports and Waterways Safety Act, the Coast Guard will consult with the Corps of Engineers when any significant restriction of passage through or under a bridge is contemplated to be authorized or a waterway is to be temporarily closed.

6. *Coordination and Cooperation Procedures.* A. District Commanders, Coast Guard Districts, shall send notices of applications for permits for bridge or causeway construction, modification, or removal to the Corps of Engineers Divisions and Districts in which the bridge or causeway is located.

B. District Engineers, Corps of Engineers, shall send notices of applications for permits for other structures or dredge and fill work to local Coast Guard District Commanders.

C. In cases where proposed structures or modifications of structures do not clearly fall within one of the classifications set forth in paragraph 4.A. above, the application will be forwarded with recommendations of the reviewing officers through channels to the Chief of Engineers and the Commandant of the Coast Guard who shall, after mutual consultation, attempt to resolve the question.

D. If the above procedures fail to produce agreement, the application will be forwarded to the Secretary of the Army and Secretary of Transportation for their determination.

E. The Chief of Engineers and the Commandant, Coast Guard, pledge themselves to mutual cooperation and consultation in making available timely information and data, seeking uniformity and consistency among field offices, and providing timely and adequate review of all matters arising in connection with the administration of their responsibilities governed by the Acts cited herein.

Dated: March 21, 1973.

C. R. BENDER.

Dated: April 18, 1973.

F. J. CLARKE.

APPENDIX B—MEMORANDUM OF UNDERSTANDING BETWEEN THE SECRETARY OF THE INTERIOR AND THE SECRETARY OF THE ARMY

In recognition of the responsibilities of the Secretary of the Army under sections 10 and 13 of the Act of March 3, 1899 (33 U.S.C. 403 and 407), relating to the control of dredging, filling, and excavation in the navigable waters

of the United States, and the control of refuse in such waters, and the interrelationship of those responsibilities with the responsibilities of the Secretary of the Interior under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661–666c), and the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742a et seq.), relating to the control and prevention of water pollution in such waters and the conservation of the Nation's natural resources and related environment, including fish and wildlife and recreational values therein; in recognition of our joint responsibilities under Executive Order No. 11288 to improve water quality through the prevention, control, and abatement of water pollution from Federal and federally licensed activities; and in recognition of other provisions of law and policy, we, the two Secretaries, adopt the following policies and procedures:

POLICIES

1. It is the policy of the two Secretaries that there shall be full coordination and cooperation between their respective Departments on the above responsibilities at all organizational levels, and it is their view that maximum efforts in the discharge of those responsibilities, including the resolution of differing views, must be undertaken at the earliest practicable time and at the field organizational unit most directly concerned. Accordingly, District Engineers of the U.S. Army Corps of Engineers shall coordinate with the Regional Directors of the Secretary of the Interior on fish and wildlife, recreation, and pollution problems associated with dredging, filling, and excavation operations to be conducted under permits issued under the 1899 Act in the navigable waters of the United States, and they shall avail themselves of the technical advice and assistance which such Directors may provide.

2. The Secretary of the Army will seek the advice and counsel of the Secretary of the Interior on difficult cases. If the Secretary of the Interior advises that proposed operations will unreasonably impair natural resources or the related environment, including the fish and wildlife and recreational values thereof, or will reduce the quality of such waters in violation of applicable water quality standards, the Secretary of the Army in acting on the request for a permit will carefully evaluate the advantages and benefits of the operations in relation to the resultant loss or damage, including all data presented by the Secretary of the Interior, and will either deny the permit or include such conditions in the permit as he determines to be in the public interest, including provisions that will assure compliance with water quality standards established in accordance with law.

PROCEDURES FOR CARRYING OUT THESE POLICIES

1. Upon receipt of an application for a permit for dredging, filling, excavation, or other related work in navigable waters of the United States, the District Engineers shall send notices to all interested parties, including the appropriate Regional Directors of the Federal Water Pollution Control Administration, the United States Fish and Wildlife Service, and the National Park Service of the Department of the Interior, and the appropriate State conservation, resources, and water pollution agencies.

2. Such Regional Directors of the Secretary of the Interior shall immediately make such studies and investigations as they deem necessary or desirable, consult with the appropriate State agencies, and advise the District Engineers whether the work proposed by the permit applicant, including the deposit of any material in or near the navigable waters of the United States, will reduce the quality of such waters in violation of applicable water quality standards or unreasonably impair natural resources or the related environment.

3. The District Engineer will hold public hearings on permit applications whenever response to a public notice indicates that hearings are desirable to afford all interested parties full opportunity to be heard on objections raised.

4. The District Engineer, in deciding whether a permit should be issued, shall weigh all relevant factors in reaching his decision. In any case where Directors of the Secretary of the Interior advise the District Engineers that proposed work will impair the water quality in violation of applicable water quality standards or unreasonably impair the natural resources or the related environment, he shall, within the limits of his responsibility, encourage the applicant to take steps that will resolve the objections to the work. Failing in this respect, the District Engineer shall forward the case for the consideration of the Chief of Engineers and the appropriate Regional Director of the Secretary of the Interior shall submit his views and recommendations to his agency's Washington Headquarters.

5. The Chief of Engineers shall refer to the Under Secretary of the Interior all those cases referred to him containing unresolved substantive differences of views and he shall include his analysis thereof, for the purpose of obtaining the Department of Interior's comments prior to final determination of the issues.

6. In those cases where the Chief of Engineers and the Under Secretary are unable to resolve the remaining issues, the cases will be referred to the Secretary of the Army for decision in consultation with the Secretary of the Interior.

7. If in the course of operations within this understanding, either Secretary finds its terms in need of modification, he may notify the other of the nature of the desired changes. In that event the Secretaries shall within 90 days negotiate such amendment as is considered desirable or may agree upon termination of this understanding at the end of the period.

Dated: July 13, 1967.

STEWART L. UDALL,
Secretary of the Interior.

Dated: July 13, 1967.

STANLEY RESOR,
Secretary of the Army.

APPENDIX C

Application No.----------
Name of Applicant----------
Effective Date----------
Expiration Date (If applicable)----------

DEPARTMENT OF THE ARMY

PERMIT

Referring to written request dated ---------- for a permit to:

( ) Perform work in or affecting navigable waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403);

( ) Discharge dredged or fill material into navigable waters upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 404 of the Federal Water Pollution Control Act (86 Stat. 816, P.L. 92–500);

( ) Transport dredged material for the purpose of dumping it into ocean waters upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (86 Stat. 1052; P.L. 92–532);

(Here insert the full name and address of the permittee)

is hereby authorized by the Secretary of the Army: to----------
----

(Here describe the proposed structure or activity, and its intended use. In the case of an application for a fill permit, describe the structures, if any, proposed to be erected on the fill. In the case of an application for the discharge of dredged or fill material into navigable waters or the transportation for discharge in ocean waters of dredged material, describe the type and quantity of material to be discharegd.)

in ----------

(Here to be named the ocean, river, harbor, or waterway concerned.)

at ----------

(Here to be named the nearest well-known locality—preferably a town or city—and the distance in miles and tenths from some definite point in the same, stating whether above or below or giving direction by points of compass.)

in accordance with the plans and drawings attached hereto which are incorporated in and made a part of this permit (on drawings: give file number or other definite identification marks.) Subject to the following conditions:

I. *General conditions*: a. That all activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions j or k hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended or revoked in whole or in part.

b. That all activities authorized herein shall, if they involve a discharge or deposit into navigable waters or ocean waters, be at all times consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, and pretreatment standards established pursuant to Sections 301, 302, 306 and 307 of the Federal Water Pollution Control Act of 1972 (P.L. 92–500; 86 Stat. 816), or pursuant to applicable State and local law.

c. That when the activity authorized herein involves a discharge or deposit of dredged or fill material into navigable waters, the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implementation plan contained in such revised or modified standards, or within such longer period of time as the District Engineer, in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances.

d. That the permittee agrees to make every reasonable effort to prosecute the construction or work authorized herein in a manner so as to minimize any adverse impact of the construction or work on fish, wildlife and natural environmental values.

e. That the permittee agrees that it will prosecute the construction or work authorized herein in a manner so as to minimize any degradation of water quality.

f. That the permittee shall permit the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

g. That the permittee shall maintain the structure or work authorized herein in good condition and in accordance with the plans and drawings attached hereto.

h. That this permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations, nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein.

i. That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

j. That this permit may be summarily suspended, in whole or in part, upon a finding by the District Engineer that immediate suspension of the activity authorized herein would be in the general public interest. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by the permittee which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of this notice. Within ten days following receipt of this notice of suspension, the permittee may request a hearing in order to present information relevant to a decision as to whether his permit should be reinstated, modified or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the hearing, or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the permit will either be reinstated, modified or revoked.

k. That this permit may be either modified, suspended or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that there has been a violation of any of the terms or conditions of this permit or that such action would otherwise be in the public interest. Any such modification, suspension, or revocation shall become effective 30 days after receipt by the permittee of written notice of such action which shall specify the facts or conduct warranting same unless (1) within the 30-day period the permittee is able to satisfactorily demonstrate that (a) the alleged violation of the terms and the conditions of this permit did not, in fact, occur or (b) the alleged violation was accidental, and the permittee has been operating in compliance with the terms and conditions of the permit and is able to provide satisfactory assurances that future operations shall be in full compliance with the terms and conditions of this permit; or (2) within the aforesaid 30-day period, the permittee requests that a public hearing be held to present oral and written evidence concerning the proposed modification, suspension or revocation. The conduct of this hearing and the procedures for making a final decision either to modify, suspend or revoke this pemit in whole or in part shall be pursuant to procedures prescribed by the Chief of Engineers.

l. That in issuing this permit, the Government has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

m. That any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the United States.

n. That the permittee shall notify the District Engineer at what time the activity authorized herein will be commenced, as far in advance of the time of commencement as the District Engineer may specify, and of any suspension of work, if for a period of more than one week, resumption of work and its completion.

o. That if the activity authorized herein is not started on or before _____ day of _____, 19__, (one year from the date of issuance of this permit unless otherwise specified) and is not completed on or before _____ day of _____, 19__, (three years from the date of issuance of this permit unless otherwise specified) this permit, if not previously revoked or specifically extended, shall automatically expire.

p. That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

q. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

r. That this permit does not authorize or approve the construction of particular structures, the authorization or approval of which may require authorization by the Congress or other agencies of the Federal Government.

s. That if and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party pursuant to General Condition *v* hereof, he must restore the area to a condition satisfactory to the District Engineer.

t. That if the recording of this permit is possible under applicable State or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to and interests in real property.

u. That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

v. That this permit may not be transferred to a third party without prior written notice to the District Engineer, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferee subscribing to this permit in the space provided below and thereby agreeing to comply with all terms and conditions of this permit. In addition, if the permittee transfers the interests authorized herein by conveyance of realty, the deed shall reference this permit and the terms and conditions specified herein and this permit shall be recorded along with the deed with the Register of Deeds or other appropriate official.

II. *Special Conditions:* Here list conditions relating specifically to the proposed structure or work authorized by this permit. The following Special Conditions will be applicable when appropriate:

STRUCTURES FOR SMALL BOATS: That permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to insure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.

DISCHARGE OF DREDGED MATERIAL INTO OCEAN WATERS: That the permittee shall place a copy of this permit in a conspicuous place in the vessel to be used for the transportation and/or dumping of the dredged material as authorized herein.

ERECTION OF STRUCTURE IN OR OVER NAVIGABLE WATERS: That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

MAINTENANCE DREDGING: (1) That when the work authorized herein includes periodic maintenance dredging, it may be performed under this permit for ____ years from the date of issuance of this permit (ten years unless otherwise indicated); and (2) That the permittee will advise the District Engineer in writing at least two weeks before he intends to undertake any maintenance dredging.

This permit shall become effective on the date of the District Engineer's signature.

Permittee hereby accepts and agrees to comply with the terms and conditions of this permit.

_____
Permittee

_____
Date

By authority of the Secretary of the Army:

_____
District Engineer

_____
Date

Transferee hereby agrees to comply with the terms and conditions of this permit.

_____
Transferee

_____
Date

APPENDIX D—DELEGATION OF AUTHORITY TO ISSUE OR DENY PERMITS FOR CONSTRUCTION OR OTHER WORK AFFECTING NAVIGABLE WATERS OF THE UNITED STATES

MAY 24, 1971.

Pursuant to the authority vested in me by the Act of March 3, 1899, c. 425, Sections 10

and 14, 30 Stat. 1151, 1152, 33 U.S.C. Sections 403 and 408, and the Act of June 13, 1902, c. 1079, Section 1, 32 Stat. 371, 33 U.S.C. Section 565, I hereby authorize the Chief of Engineers and his authorized representatives to issue or deny permits for construction or other work affecting navigable waters of the United States. Except in cases involving applications for permits for artificial islands or fixed structures on Outer Continental Shelf lands under mineral lease from the Department of the Interior, the Chief of Engineers shall, in exercising such authority, evaluate the impact of the proposed work on the public interest. In cases involving applications for permits for artificial islands or fixed structures on Outer Continental Shelf lands under mineral lease from the Department of the Interior, the Chief of Engineers shall, in exercising such authority, evaluate the impact of the proposed work on navigation and national security. The permits so granted may be made subject to such special conditions as the Chief of Engineers or his authorized representatives may consider necessary in order to effect the purposes of the above Acts.

The Chief of Engineers and his authorized representatives shall exercise the authority hereby delegated subject to such conditions as I or my authorized representative may from time to time impose.

STANLEY R. RESOR,
Secretary of the Army.

APPENDIX E—DELEGATION OF AUTHORITY TO ISSUE OR DENY PERMITS FOR THE DISCHARGE OF DREDGED OR FILL MATERIAL INTO NAVIGABLE WATERS

MARCH 12, 1973.

Pursuant to the authority vested in me by Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 86 Stat. 816, P.L. 92-500, I hereby authorize the Chief of Engineers and his authorized representatives to issue or deny permits, after notice and opportunity for public hearings, for the discharge of dredged or fill material into navigable waters at specified disposal sites. The Chief of Engineers shall, in exercising such authority, evaluate the impact of the proposed discharge on the public interest. All permits issued shall specify a disposal site for the discharge of the dredged or fill material through the application of guidelines developed by the Administrator of the Environmental Protection Agency and myself. In those cases where these guidelines would prohibit the specification of a disposal site, the Chief of Engineers, in his evaluation of whether the proposed discharge is in the public interest, is authorized also to consider the economic impact on navigation and anchorage which would occur by failing to authorize the use of a proposed disposal site. The permits so granted may be made subject to such special conditions as the Chief of Engineers or his authorized representatives may consider necessary in order to effect the purposes of the above Act, other pertinent laws and any applicable memoranda of understanding between the Secretary of the Army and heads of other governmental agencies.

The Chief of Engineers and his authorized representative shall exercise the authority hereby delegated subject to such conditions as I or my authorized representative may from time to time impose.

KENNETH E. BELIEU,
Acting Secretary of the Army.

MARCH 12, 1973.

APPENDIX F—DELEGATION OF AUTHORITY TO ISSUE OR DENY PERMITS FOR THE TRANSPORTATION OF DREDGED MATERIAL FOR THE PURPOSE OF DUMPING IT INTO OCEAN WATERS

Pursuant to the authority vested in me by Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, 86 Stat. 1052, PL 92-532, I hereby authorize the Chief of Engineers and his authorized representatives to issue or deny permits, after notice and opportunity for public hearings, for the transportation of dredged material for the purpose of dumping it in ocean waters. The Chief of Engineers and his authorized representatives shall, in exercising such authority, evaluate the impact of the proposed dumping on the public interest. No permit shall be issued unless a determination is made that the proposed dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. In making this determination, those criteria for ocean dumping established by the Administrator of the Environmental Protection Agency pursuant to Section 102(a) of the above Act which relate to the effects of the proposed dumping shall be applied. In addition, based upon an evaluation of the potential effect which a permit denial will have on navigation, economic and industrial development, and foreign and domestic commerce of the United States, the Chief of Engineers or his authorized representative, in evaluating the permit application, shall make an independent determination as to the need for the dumping, other possible methods of disposal, and appropriate locations for the dumping. In considering appropriate disposal sites, recommended sites designated by the Administrator of the Environmental Protection Agency pursuant to Section 102(c) of the above Act will be utilized to the extent feasible. Prior to issuing any permit, the Chief of Engineers or his authorized representative shall first notify the Administrator of the Environmental Protection Agency or his authorized representative of his intention to do so. In any case in which the Administrator or his authorized representative disagrees with the determination of the Chief of Engineers or his authorized representative as to compliance with the criteria established pursuant to Section 102(a) of the above Act relating to the effects of the dumping or with the restrictions established pursuant to Section 102(c) of the above Act relating to critical areas, the determination of the Administrator or his authorized representative shall prevail. If, in any such case, the Chief of Engineers or his Director of Civil Works finds that, in the disposition of dredged material, there is no economically feasible method or site available other than a dumping site the utilization of which would result in noncompliance with such criteria or restrictions, he shall so certify and request that I seek a waiver from the Administrator of the Environmental Protection Agency of the specific requirements involved. Unless the Administrator of the Environmental Protection Agency grants a waiver, the Chief of Engineers or his authorized representative shall not issue a permit which does not comply with such criteria and restrictions. The permits so granted may be made subject to such special conditions as the Chief of Engineers or his authorized representatives may consider necessary in order to effect the purposes of the above Act, other pertinent laws, and any applicable memoranda of understanding between the Secretary of the Army and the heads of other governmental agencies.

The Chief of Engineers and his authorized representative shall exercise the authority hereby delegated subject to such conditions as I or my authorized representative may from time to time impose.

KENNETH E. BELIEU,
Acting Secretary of the Army.

APPENDIX G—TABLE OF CONTENTS AND LIST OF APPENDICES TO § 209.120

TABLE OF CONTENTS

LIST OF APPENDICES

[FR Doc.74-7797 Filed 4-2-74;8:45 am]

Proposed Rules

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

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[21 CFR Part 1301]

BULK MANUFACTURE OF SCHEDULE I AND II SUBSTANCES

Proposed Application Procedures

Section 303(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a)) provides that the Attorney General "shall register an applicant to manufacture controlled substances in Schedules I or II if he determines that such registration is consistent with the public interest" and with certain international obligations of the United States. This authority has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

Section 303(a) sets forth six factors to be considered in determining the public interest, among them the "maintenance of effective controls against diversion * * * by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions."

Section 1301.43 of Title 21 of the Code of Federal Regulations sets forth the procedures relating to the application for registration or reregistration as a bulk manufacturer of a particular Schedule I or Schedule II substance. At the time such an application is submitted, a notice of the application is sent to each registrant and applicant who has applied for registration to manufacture the basic class of the controlled substance. Recipients of the notice are afforded an opportunity to object to the proposed application and request a hearing pursuant to §§ 1301.44 and 1301.45.

Various interpretations by bulk manufacturing registrants of the phrase "limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions" have precipated requests for hearings on proposed applications.

The Drug Enforcement Administration of the United States Department of Justice, presently interprets the statute as requiring the registration of otherwise qualified applicants to manufacture any controlled substance, as long as the total number of registrants remains within the effective control by the Administration.

We believe that section 303(a)(1) permits the Drug Enforcement Administration to restrict entry to a number of registrants constituting adequate competition only when actually necessary to maintain effective controls against diversion. Stated conversely, section 303(a)(1) requires the Drug Enforcement Administration to register an applicant who meets all the other statutory requirements, without regard to the adequacy of competition, if the Administration determines that registering another manufacturer will not increase the difficulty of maintaining effective controls against diversion.

The legislative history of the Act clearly supports this construction of the Act. The sole purpose of section 303(a) was the prevention of diversion. Nowhere in the legislative history of the Act is there any indication that Congress based section 303(a)(1) on a determination that fully effective competition of controlled substances or entry into these markets is in itself undesirable. Nor is the Administrator aware of any reason to limit competition to an "adequate" level in the absence of a danger to the maintenance of effective controls against diversion.

This construction of section 303(a)(1) is consistent with, if not required by, numerous Supreme Court decisions holding that our national competitive policies are to be subverted only when necessary to make a particular regulatory scheme effective.

In order to simplify the administrative process by avoiding an unnecessary, expensive, and time consuming hearing on the adequacy of competition each time a new manufacturer seeks registration or an existing manufacturer seeks reregistration and to minimize unnecessary obstacles to the registration of qualified manufacturers, the Administration proposes two amendments to Part 1301, Title 21 of the Code of Federal Regulations.

Proposed § 1301.43(b) makes it clear that the Administration will limit the number of competitors to an "adequate" level only if necessary to maintain effective controls against diversion.

Proposed § 1301.58 would require the presiding officer to defer all evidence relating to the adequacy of competition until he determines whether the granting of the application would present a diversion problem. If the presiding officer finds the granting of the application would not raise a diversion control problem, then a complex and costly inquiry into whether competition is "adequate" need never be undertaken.

Therefore, under the authority vested in the Attorney General by sections 301 and 505 of the Comprehensive Drug Abuse and Prevention Act of 1970 (21 U.S.C. 821, 875) and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator proposes that:

1. Section 1301.43(b) of Title 21 of the Code of Federal Regulations be amended to read as follows:

§ 1301.43 Application for Bulk manufacture of Schedule I and II Substances.

* * * * *

(b) The Administrator shall not limit the number of manufacturers in any basic class to a number less than that consistent with the maintenance of effective controls against diversion solely because a smaller number is capable of producing an adequate and uninterrupted supply under adequately competitive conditions.

* * * * *

2. Part 1301 of Title 21 of the Code of Federal Regulations be amended by adding a new § 1301.58 to read as follows:

§ 1301.58 Order of receiving and relevance of certain evidence.

(a) At any hearing on an application to manufacture any controlled substance listed in Schedule I or II, the presiding officer shall defer receiving evidence bearing on whether existing manufacturers are capable of producing an adequate and uninterrupted supply under adequately competitive conditions until such time as he determines whether the registration of the applicant would be consistent with the maintenance of effective controls against diversion.

(b) If the presiding officer determines that the registration of the applicant would be consistent with the maintenance of effective controls against diversion, he shall (pursuant to § 1301.43(b)) exclude as irrelevant all evidence bearing on whether existing manufacturers are capable of producing an adequate and uninterrupted supply under adequately competitive conditions.

All interested persons are invited to submit their comments and objections in writing regarding this proposal or the legal consideration upon which it rests. These comments or objections should state with particularity the issues concerning which the person desires to be heard. Comments and objections should be submitted in quintuplicate to the Hearing Clerk, Office of the Chief Coun-

sel, Drug Enforcement Administration, Department of Justice, Room 611, 1405 I Street, NW., Washington, D.C., 20537, and must be received no later than May 17, 1974.

In the event that an interested party submits objections to this proposal which present reasonable grounds for this rule not to be finalized and requests a hearing in accordance with 21 CFR 1308.45, the party will be notified by registered mail that the hearing will be held at the time and place set forth in the letter. A notice of hearing will simultaneously be published in the FEDERAL REGISTER. If objections submitted do not present such reasonable grounds, the parties will be so advised by registered mail.

If no objections which present reasonable grounds for a hearing on the proposal are received within the time limitation and all interested parties waive or are deemed to waive their opportunity for a hearing or to participate in a hearing, the Administrator shall issue his final order pursuant to 21 CFR 1308.48 without a hearing.

Dated: March 27, 1974.

JOHN R. BARTELS, Jr.,
Administrator,
Drug Enforcement Administration.

[FR Doc.74-7710 Filed 4-2-74;8:45 am]

Immigration and Naturalization Service

[8 CFR Part 103]

APPEARANCE AND DELIVERY BOND; CONDITION AGAINST UNAUTHORIZED EMPLOYMENT

Notice of Proposed Rule Making

Pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383), notice is hereby given of the proposed amendment of § 103.6(a)(2) of Title 8 of the Code of Federal Regulations, pertaining to the inclusion in an appearance and delivery bond of a condition barring unauthorized employment.

The Attorney General, in a recent decision (Matter of Toscano-Rivas, A-19923806, January 9, 1974), approved the imposition of a condition against unauthorized employment as part of an appearance and delivery bond in connection with a deportation proceeding. In order to incorporate this condition into the regulations, the amendment to § 103.6(a)(2) is being proposed.

In accordance with section 553 of Title 5 of the United States Code (80 Stat. 383), interested persons may submit to the Commissioner of Immigration and Naturalization, Room 7100-C, 425 Eye Street, NW., Washington, D.C. 20536, written data, views, or arguments, in duplicate, with respect to the proposed rule. Such representations may not be presented orally in any manner. All relevant material received by May 3, 1974, will be considered.

In § 103.6, paragraph (a)(2) is amended in the following respects: the existing material is redesignated subdivision (i) and the caption "General" is added immediately following the subparagraph (i) designation; and new subdivisions (ii) and (iii) are added. As amended, § 103.6 (a)(2) reads as follows:

§ 103.6 Surety bonds.

(a) *Posting of surety bonds.* * * *

(2) *Bond riders*—(i) *General.* Bond riders shall be prepared on Form I-351 and attached to Form I-352. If a condition to be included in a bond is not on Form I-351, a rider containing the condition shall be executed and forwarded with Form I-352 to the regional commissioner for approval.

(ii) *Condition against unauthorized employment.* In the discretion of the district director and with the prior approval of the regional commissioner, a condition barring unauthorized employment may be included in an appearance and delivery bond in connection with a deportation proceeding.

(iii) *Factors to be considered.* Among the factors to be considered in connection with the imposition of the bond condition barring unauthorized employment are: Safeguarding employment opportunities for United States citizens and legal resident aliens; impact on and dislocation of American workers by aliens' employment; the number of aliens involved in performing the unauthorized employment; prior immigration violations by the alien or aliens and the likelihood of continued violations with the same employer; availability for hearings or deportation; whether the nature of the employment requires possible changes of addresses by the alien so as to make him difficult to locate for future hearings or deportation; the nature of the charges against the alien and his activities in the United States, e.g., subversive, criminal, narcotic; whether the employment might enable the alien to carry on illicit activities in such a manner as to pose a threat to the national security or public safety; whether the alien is presenting a substantial issue as to his deportability or a reasonable basis for consideration of discretionary relief; whether a spouse or children are dependent on the alien for support, or other equities exist. These factors are intended as examples only and are not exclusive.

* * * * *

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

Dated: March 28, 1974.

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

[FR Doc.74-7662 Filed 4-2-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Part 244]

DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN CHILD-CARE INSTITUTIONS

Notice of Proposed Rulemaking

Notice is hereby given that the Food and Nutrition Service, Department of Agriculture, intends to issue regulations governing the service of free and reduced price meals and free milk in child-care institutions. The regulations are intended to replace and update the notice of October 18, 1968, and to implement the free milk provisions in child-care institutions mandated by Pub. L. 93-150. Under this proposed part, child-care institutions which serve meals or milk at no separate charge to the children would file a simple affidavit type policy statement. Institutions which have a pricing situation would need a full free and reduced price policy. The regulations are proposed to be effective upon final publication in the FEDERAL REGISTER in regard to the Special Food Service Program for Children, and in regard to the Special Milk Program, upon final publication in the FEDERAL REGISTER of the amendment to Part 215 implementing the free milk provision of Pub. L. 93-150.

Comments, suggestions, or objections are invited and in order to be sure of being considered should be delivered to Herbert D. Rorex, Director, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, or submitted by mail postmarked not later than April 23, 1974. While the comment period is shorter than the 30 days normally provided, it is necessary in order to implement the provisions for the summer operations of the Special Food Service Program for Children. Communications should identify the regulations section and paragraph on which comments, etc., are offered. All comments, suggestions, or objections will be considered before the final amendments are published. All written submissions received pursuant to this notice will be made available for public inspection at the Office of the Director, Child Nutrition Division, during the regular business hours (8:30 a.m. to 5:00 p.m.) (7 CFR 1.27(b)).

AUTHORITY: Secs. 3 and 10, Pub. L. 89-642, 80 Stat. 885, 889, as amended (42 U.S.C. 1772, 1779); sec. 13, Pub. L. 79-396, 60 stat. 230, as added sec. 3, Pub. L. 90-302, 82 Stat. 117, as amended (42 U.S.C. 1761).

§ 244.1 General purpose and scope.

(a) Section 13 of the National School Lunch Act, as amended (42 U.S.C. 1761), authorizes a food service program in child-care institutions for children from areas in which poor economic conditions exist and from areas in which there are high concentrations of working mothers. The Act further provides that meals shall be served without cost or at a reduced price to children determined by the child-care institutions to be unable to

pay the full price. Section 3 of the Child Nutrition Act, as amended (42 U.S.C. 1772), provides that child-care institutions participating in the Special Milk Program shall serve free milk to children who qualify for free lunches under guidelines set forth by the Secretary.

(b) Under the regulations governing the Special Food Service Program for Children (7 CFR Part 225) and the Special Milk Program (7 CFR Part 215), it is the responsibility of the child-care institutions to determine the children who are to receive free or reduced price meals or free milk. Federal and State agencies charged with administering these programs are responsible for assuring that child-care institutions are discharging the responsibilities placed on them. This part sets forth the responsibilities under those Acts and regulations of State educational agencies, the Food and Nutrition Service Regional Offices, and child-care institutions with respect to the establishment of income criteria, and the determination of eligibility of children for free and reduced price meals or free milk, and for obtaining assurance that there is no physical segregation of, or other discrimination against, or overt identification of children unable to pay the full price for the meals or milk.

§ 244.2 Definitions.

(a) For the purpose of this part, the term:

(1) "Family" means a group of related or nonrelated individuals, who are not residents of an institution or boarding house, but who are living as one economic unit.

(2) "FNSRO where applicable" means the appropriate Food and Nutrition Service Regional Office when that agency administers the Special Food Service Program for Children or the Special Milk Program.

(3) "Free meal" means a meal for which neither the child nor any member of his family pays or is required to work in the child-care institution or its food service.

(4) "Free milk" means milk for which neither the child nor any member of his family pays or is required to work in the child-care institution or its food service.

(5) "Income Poverty Guidelines" means the family-size annual income levels prescribed annually by the Secretary for use by States as the minimum family-size income levels for establishing eligibility for free and reduced price meals in the National School Lunch Program and the School Breakfast Program.

(6) "Meal" means a breakfast, lunch, supper, or supplement which meets the applicable requirement prescribed in § 225.9 of Part 225 of this chapter.

(7) "Reduced price meal" means a meal the price of which shall be less than the full price of the meal and for which neither the child nor any member of his family shall be required to supply an equivalent value in work for the child-care institution or its food service.

(8) "Child-care institution" means any nonprofit nursery school, child-care center, settlement house, summer camp or similar nonprofit institution, devoted to the care and training of children and includes service institutions as defined in Part 225 of this chapter.

(9) "State agency" means the educational agency or other agency of a State, which administers the Special Food Service Program or the Special Milk Program within a State.

(b) Other terms and abbreviations used in this part shall have the meanings ascribed to them in Parts 215 and 225 of this chapter.

§ 244.3 Action by State agencies and FNSROs.

(a) State agencies, or FNSROs where applicable, shall annually, for child-care institutions under their jurisdiction:

(1) Inform child-care institutions participating in the Special Food Service Program or the Special Milk Program of their responsibility to provide free and reduced price meals or free milk to children unable to pay the full price, and provide to each a copy of the State's income poverty standards for determining eligibility for free and reduced price meals under the National School Lunch Program or School Breakfast Program to assist them in meeting their responsibility;

(2) Require each child-care institution to develop, at the time the child-care institution applies for program participation and thereafter at the time the program agreement is renewed, a written policy statement to be used uniformly in all units under their jurisdiction as required in § 244.4.

(3) Review and approve such policy statements within 60 days of receipt from the child-care institution.

(b) State agencies, or FNSROs where applicable, shall not approve any child-care institution for participation on a summer or year-round basis unless the free and reduced price policy statement has been approved, nor renew the agreement of any child-care institution participating on a year-round basis unless the free and reduced price policy statement has been approved. Pending approval of a revision of a policy statement, an existing policy statement shall remain in effect.

§ 244.4 Action by Child-Care Institutions.

(a) Child-care institutions which serve meals or milk at no separate charge to attending children shall develop a policy statement which consists of an assurance to the State agency or FNSRO that all children are served the same meals at no charge regardless of race, color, or national origin, and that there is no discrimination in the course of the food service.

(b) Child-care institutions which charge separately for meals or milk shall develop a policy statement for determining eligibility for free and reduced price meals or free milk in accordance with § 244.5.

§ 244.5 Policy statement for determining eligibility for free and reduced price meals or free milk.

(a) The policy statement for determining eligibility for free and reduced price meals or free milk must contain the following:

(1) The specific criteria to be used in determining eligibility for free or reduced price meals or free milk. These criteria must give consideration to economic need as reflected by family size and income, and, for child-care institutions which participate in the Special Food Service Program, the number of children in the family attending school or child-care institutions. The criteria used by the child-care institution may not result in the eligibility of children from families whose incomes exceed the family size income standards prescribed by the State agency, or FNSRO where applicable, for determining eligibility for free and reduced price meals under the National School Lunch or School Breakfast Programs.

(2) The method by which the child-care institution will collect information from families in order to determine a child's eligibility for free and reduced price meals or free milk.

(3) The method by which the child-care institution will collect meal payments in such a way as to prevent the overt identification of children receiving free and reduced price meals or free milk.

(4) A hearing procedure substantially like that outlined in Part 245 of this chapter.

(5) An assurance that there will be no discrimination against free and reduced price meal or free milk recipients and no discrimination against any child on the basis of race, color, or national origin.

(b) Child-care institutions participating in both the Special Food Service Program for Children and the Special Milk Program must develop one policy for both free and reduced price meals and free milk.

§ 244.6 Public announcement of eligibility criteria.

Each child-care institution shall make available on an annual basis to the information media serving the area from which the child-care institution draws its attendance, a public release announcing the availability of free and reduced price meals or free milk to children meeting the approved eligibility criteria. The public announcement must also state that meals or milk are available to all children in attendance without regard to race, color, or national origin.

Dated: March 29, 1974.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.74-7641 Filed 4-2-74;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Parts 1905, 1952 and 1954]

FEDERAL AND STATE VARIANCES FROM IDENTICAL STANDARDS

Notice of Proposed Rulemaking

Notice is hereby given that under authority of sections 6, 8(g)(2), and 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 657(g), and 667), it is proposed to amend 29 CFR Part 1952, Approved State Plans for Enforcement of State Standards, by adding to Subpart A, General Provisions and Conditions, a new § 1952.9 providing, under certain conditions, for mutual recognition for compliance purposes of Federal or State-granted variances. Under these provisions employers would have a choice of applying for a variance from a standard, applicable in employment or a place of employment in the State, to either the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary), or to the State agency vested with variance-granting authority under the plan. The option of selection of procedures would be available to employers only where the State and Federal standard involved is identical. In making application to the Assistant Secretary or to the State agency the employer must include a certification with the application, that such application has not been previously filed, denied, modified or revoked in any proceeding dealing with the same place of employment in the State. This requirement is included to preclude "forum-shopping" and would be subject to Federal and State false certification penalties. Conforming amendments to Parts 1905 and 1954 are also proposed.

The Assistant Secretary and the State will recognize compliance with the approved variance, or any order or modification in connection therewith from its effective date as compliance with the identical Federal or State standard concerned, provided the certification accompanied and was the basis for the variance application. Such Federal enforcement policy by the Assistant Secretary is within the discretion conferred under section 18(e) of the Act, and would be subject to findings from evaluations of the State program.

Under section 18 of the Act, approved State plans must provide for the development and enforcement of safety and health standards at least as effective in providing safe and healthful employment and places of employment as the Federal standards promulgated under section 6 of the Act relating to the same hazards. This is a continuing obligation for the States, both after initial and final approval of their plans under section 18 (e). Many States have chosen to meet this obligation by adopting, and continuing to adopt, as State standards, Federal standards promulgated under section 6.

In addition, approved State plans are required under 29 CFR 1902.4(b)(2)(iv) to provide for the granting of variances from State standards upon application of an employer or employers which correspond to the temporary and permanent variances granted under the Federal program. (See decisions of approval: Tennessee, 38 FR 17838; Michigan, 38 FR 27388; Kentucky, 38 FR 20322; Hawaii, 39 FR 1010.)

In States without approved plans, only Federal standards and variance procedures apply. Thus, an employer with operations in a State with a plan and in a State without a plan might be required to secure a variance from an identical standard from both the Assistant Secretary and the State with an approved plan. Under this proposal, such an employer would be able to apply to the Assistant Secretary for the variance and it would be recognized for compliance purposes everywhere the Federal variance and the identical standard applies regardless of whether or not he operates in a State with an approved plan. Conversely, if an employer chose to secure a variance from an identical State standard under conforming State procedures, the Assistant Secretary would recognize the variance for compliance purposes during the period of Federal discretionary authority in the State.

After final operational approval of a State plan under section 18(e), the Federal enforcement authority is withdrawn from the State. Federal standards and variance criteria continue to apply to the State, however, as a measure of effectiveness against which the State plan will be continually monitored under section 18(f) of the Act. In addition, as more States enter the program and make the commitment to adopt the Federal standards, as the majority are doing, undue burdens on interstate commerce will increase, unless a uniform system for securing a variance from an identical standard is available to employers operating in more than one State. To avoid these undue burdens and duplications, the proposal would require continuing recognition of Federal variance actions with regard to identical standards as a condition to approved State plans.

It therefore appears that appropriate mutuality of recognition of Federal and State variance actions with regard to identical Federal or State standards applicable in a workplace would be in the best interests of orderly administration of the joint Federal-State program, employee protection, and employer compliance.

Interested persons are hereby given until May 3, 1974, to submit to the Associate Assistant Secretary for Regional Programs, Room 840, 1726 M Street, NW., Washington, D.C. 20210, written comments, suggestions or objections regarding the proposed new § 1952.9, and conforming amendments to 29 CFR Part 1954 and Part 1905, as set out below. Comments received will be available for public inspection or copying during normal business hours at the above address. The proposed rules may be revised prior to final publication to reflect suggestions made by comments.

In consideration of the foregoing it is proposed to amend Chapter XVII of Title 29, Code of Federal Regulations as follows:

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

1. A new § 1952.9 in Subpart A of Part 1952 would be added to read as follows:

§ 1952.9 Federal and State variances; mutual recognition provided.

(a) Where a State standard is identical to a Federal standard addressed to the same hazard, an employer may elect to apply a temporary or permanent variance to the Assistant Secretary or to the appropriate State agency under the Plan, certifying that the application has not been previously filed with either authority, or denied, modified or revoked in any proceeding dealing with the same employment or place of employment in the State.

(b) Compliance with a temporary or permanent variance or any order or interim order in connection therewith, or any modification or extension thereof, granted from an identical Federal-State standard by either the Assistant Secretary or the appropriate State agency under the Plan, shall be prospectively recognized as compliance with the Federal or State standard concerned by either the Assistant Secretary or the State, provided the certification required in (a) accompanied the application and was part of the basis for its approval. Federal recognition of State variance actions is subject to pertinent findings of effectiveness with regard to the State program under 29 CFR Part 1954.

(c) The option provided in paragraph (a) of this section is not available where a State standard is at least as effective but different from the Federal standard addressed to the same hazard, and employers must apply to the appropriate State authority to secure a temporary or permanent variance from any such State standard.

PART 1905—RULES OF PRACTICE FOR VARIANCES, LIMITATIONS, VARIATIONS, TOLERANCES, AND EXEMPTIONS UNDER THE WILLIAMS-STEIGER OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

2. Sections 1905.10 and 1905.11 would be amended to read as follows:

§ 1905.10 Variances and other relief under section 6(b)(6)(a).

* * * * *

(b) * * *

(11) Where the requested variance would be applicable to employment or a place of employment in a State with a State plan approved under section 18 of the Act, a certification that the variance has not been filed or denied, modified, or revoked in any proceeding dealing with the same employment or place of employment in the State.

§ 1905.11 Variances and other relief under section 6(d).

* * * * *

(b) * * *

(8) Where the requested variance would be applicable to employment or a place of employment in a State with a State plan approved under section 18 of the Act, a certification that the variance has not been filed or denied, modified, or revoked in any proceeding dealing with the same employment or place of employment in the State.

* * * * *

PART 1954—PROCEDURES FOR THE EVALUATION AND MONITORING OF APPROVED STATE PLANS

3. Section 1954.3, formerly "[reserved]", is revised to read as follows:

§ 1954.3 Concurrent authority.

Subject to pertinent findings of effectiveness under this Part, Federal enforcement proceedings will not be initiated where an employer is in compliance with a temporary or permanent variance, any order or interim order in connection therewith, or any modification or extension thereof, granted under an approved State plan in accordance with the provision of § 1952.9 of this chapter.

(Secs. 6, 8, 18, 84 Stat. 1593, 1998, 1608 (29 U.S.C. 655, 657, 667))

Signed at Washington, D.C., this 28th day of March, 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-7644 Filed 4-2-74;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 288]

[Docket No. 26539; EDR-265]

EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Notice of Proposed Rule Making

Notice is hereby given that the Civil Aeronautics Board proposes to amend Part 288 of its Economic Regulations (14 CFR Part 288) with respect to certain overseas air transportation services performed for the Department of Defense (DOD). The purpose of the proposed amendment is explained in the attached Explanatory Statement, and the proposed amendment is set forth in the proposed rule. As set out in the Explanatory Statement, the proposed amendment revises the fuel surcharge established in ER-839,[1] to reflect the latest available information pertaining to commercial fuel costs for services procured by the Military Airlift Command (MAC). The Board is also proposing a procedure for subsequent monthly fuel surcharge adjustments that may be necessitated by changes in commercial fuel prices. The amendment is proposed under authority of sections 204, 403, and 416 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 758 and 771, as amended (49 U.S.C. 1324, 1373 and 1386)).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material in communications received on or before April 17, 1974, will be considered by the Board before taking final action on the proposed rule. Copies of such communication will be available for examination by interested persons in the Docket Section of the Board, Room 714, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C. upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

EXPLANATORY STATEMENT

By ER-839, effective January 22, 1974, the Board amended Part 288 of its Economic Regulations (14 CFR Part 288) by adopting a fuel surcharge of 5.15 percent on the interim final MAC minimum rates for long-range overseas and foreign transportation based on commercial fuel prices in effect on January 1, 1974. In conjunction with our ongoing surveillance of this cost area, we have now completed an analysis of the rate impact of commercial fuel prices reported as of February 1, 1974, at each station served in MAC international operations.

The results of this analysis, set out in detail in the Appendix, show that commercial fuel prices continued upward in February 1974. Based on February 1 prices, applied to the long-range MAC operations performed for the year ended September 30, 1973, the cost of commercial fuel requires a compensating prospective MAC rate increase of 7.64 percent. Accordingly, we propose to increase the 5.15 percent surcharge provision established by ER-839, to provide a surcharge to the current interim final rates of 7.64 percent effective on and after the date of this Notice.

Despite every effort to expedite review and subsequent action to keep abreast of the volatile commercial fuel price developments, a substantial time lag in bringing MAC rates into line with the cost changes of commercial fuel is inevitable. As a result, the carriers have suffered an undue financial burden.[1] In view of this development, we have given further consideration to the procedural modification suggested by several carriers in the course of the proceeding leading to the adoption of ER-839.[2] Essentially, the proposal involves the automatic reopening of the rate effective the first day of each month for the purpose of effecting a retroactive fuel surcharge adjustment related to the prices in effect on that day.

As we indicated in ER-839, the proposal has considerable merit, particularly in a climate of dramatic price fluctuations within short time intervals such as we are currently experiencing. In the Board's opinion, new approaches are justified to cope with these unusual circumstances in the interest of maintaining necessary air transportation services by a financially sound industry. Accordingly, we are proposing a new procedure to begin with the fuel surcharge rate amendment being proposed herein. Under this proposal, the commercial fuel surcharge will expire on the last day of the month in which it becomes effective, and on the following day an "open" fuel surcharge rate status will exist. During this open period, the payments will continue to reflect, on a temporary basis, the last surcharge established for the related MAC services performed. After receipt and analysis of the commercial fuel prices in effect at the beginning of the open fuel surcharge period, the Board will issue a final rule amendment which will be effective from the first of the month. Thus, each month the fuel surcharge rate would be "open" for the period necessary to receive and analyze the reported fuel price data. Timely submission of experienced fuel data should minimize the inherent retroactivity and provide for the maintenance of rates reasonably related to the costs of the service provided.[3]

In view of the foregoing, the following rule proposals amend the current interim final MAC long-range rates to provide for a surcharge of 7.64 percent and institute the procedure outlined above to effect more timely prospective surcharge rate adjustments for fluctuations in commercial fuel prices of fuels consumed in the performance of MAC foreign and overseas air transportation services.

It is proposed to amend Part 288 of the Economic Regulations (14 CFR Part 288) as follows:

Amend § 288.7(a)(1) by amending the second proviso of the paragraph following the tables so as to change the surcharge rate, provide for the effective dates of the final revised surcharge rate, and continue the revised surcharge rate as a temporary rate provision on and after the day following the last fixed

[1] Effective January 22, 1974.

[1] A rate change of one percent for commercial fuel prices is equivalent to approximately $1.4 million of total compensation, based on experience for the year ended September 30, 1973. Therefore, a 2.5 percent change, such as experienced from January 1 to February 1, 1974, equates to approximately $300,000 per month, or about $600,000 for the time lag in this instance.

[2] See pages 2 and 3, ER-839.

[3] For example, the proposed rule surcharge of 7.64 percent would become provisions on April 1, 1974, and remain so until revised either up or down. Carriers are requested to submit their monthly fuel information no later than April 15, showing prices experienced on April 1. It is anticipated that a short time will elapse for review, after which a new surcharge will be determined and made effective from April 1. Thus, the proposal has the effect of eliminating the notice step in the rulemaking procedure for the monthly adjustments to the fuel surcharge.

effective date; the amended proviso to read as follows:

§ 288.7 Reasonable level of compensation.

* * * * *

(a) * * *

(1) * * *; and, *provided, further,* That (i) effective March 27, through March 31, 1974, the total minimum compensation for transportation with regular turbojet, wide-body jet and DC-8F-61-63 aircraft, pursuant to the rates specified above in this paragraph (1), shall be further increased by a surcharge of 7.64 percent, and (ii) after April 1, 1974, the total minimum compensation for transportation with regular turbojet, wide-body jet and DC-8F-61-63 aircraft, pursuant to the rates specified above in this paragraph (1), shall include a temporary surcharge of 7.64 percent, subject to amendment (upward or downward) upon final determination by the Board.

APPENDIX.—*Long-range MAC international carriers—rate impact for current level of commercial fuel costs* [1] *based on reported results—year ended Sept. 30, 1973*

[Dollars in thousands]

	Year ended Sept. 30, 1973			Feb. 1, 1974, price per gallon	Cost—year ended Sept. 30, 1973, based on price at Feb. 1, 1974	Cost impact at Feb. 1, 1974 prices	Computed revenues year ended Sept. 30, 1973 [2]	MAC rate impact [3]
	Gallons	Cost	Average price per gallon					
Long-range route carriers:								
Combination service:	*In thousands*		*Cents*	*Cents*				*Percent*
Northwest	10,703	$1,282	11.98	44.21	$4,731	$3,449	$15,671	22.01
Pan American	13,973	2,000	14.32	26.42	3,692	1,692	25,878	6.54
Trans World	10,724	1,388	12.94	17.47	1,873	485	14,470	3.35
Total combination	35,400	4,670	13.19	29.08	10,296	5,626	56,019	10.04
All-cargo service:								
Airlift	6,696	1,058	15.80	27.73	1,857	799	9,624	8.30
Flying Tiger	7,070	842	11.90	24.87	1,765	923	19,058	5.23
Seaboard	10,060	1,397	13.89	21.28	2,141	744	13,496	5.51
Total all-cargo	23,826	3,297	13.84	24.16	5,763	2,466	42,178	5.85
Long-range supplementals:								
Capitol	7,439	1,159	15.58	31.29	2,328	1,169	9,861	11.85
Overseas	3,579	521	14.56	27.67	990	469	6,650	7.06
Saturn	3,527	482	13.66	25.25	890	408	4,676	8.74
Trans International	3,976	608	15.30	24.75	984	376	12,547	2.99
World	5,886	835	14.19	21.63	1,273	438	11,420	3.84
Total supplementals	24,407	3,605	14.77	26.49	6,465	2,860	45,154	6.33
Total long-range carriers	83,633	11,572	13.84	26.92	22,524	10,952	143,351	7.64

[1] Per carrier reports as at Feb. 1, 1974.

[2] Revenue aircraft miles as reported on form 243, adjusted to reflect circuity absorption, times the appropriate rate established in ER-819.

[3] Ratio of net commercial fuel cost impact to revenues produced under current interim final rates.

[FR Doc.74-7551 Filed 4-2-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

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

3,5-Dichloro-N-(1,1-Dimethyl-2-Propynyl) Benzamide; Proposed Tolerance

Correction

In FR Doc. 74-6468, appearing on page 10604 of the issue of Thursday, March 21, 1974, the date in the first and second lines of column 2, now reading "April 22, 1979," should read "April 22, 1974".

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

RAPID TRANSIT VEHICLE SEATS FROM BRAZIL

Antidumping Proceeding

APRIL 1, 1974.

On February 4, 1974, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), indicating a possibility that rapid transit vehicle seats from Brazil are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

The merchandise in question consists of cantilever type, double car seat assemblies primarily of steel frame members and woven seat material and designed specially for use in rapid transit system rail cars.

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows: The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the constructed value.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

[SEAL] JAMES B. CLAWSON,
Acting Assistant Secretary of the Treasury.

[FR Doc.74-7825 Filed 4-2-74;9:14 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

AMPHETAMINE

Proposed Aggregate Production Quota for 1974

Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for all controlled substances listed in schedules I and II by July 1 of each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations. The quotas are to provide adequate supplies of each such substance for (1) the estimated medical, scientific, research, and industrial needs of the United States, (2) lawful export requirements, and (3) the establishment and maintenance of reserve stocks.

On July 3, 1973, the Drug Enforcement Administration published in the FEDERAL REGISTER a Notice of Proposed 1974 Aggregate Production Quota for Amphetamine (38 FR 17741).

In order to meet the statutory requirement that 1974 production quota be established on or before July 1, 1973, the Administration utilized the same data used for setting the 1973 quota on May 8, 1973 (38 FR 11473).

In the July 3, 1973 notice, the Administration stated that it intended to revise the 1974 amphetamine quota in light of data submitted on quota applications and reports from manufacturers regarding estimates of 1974 sales and December 31, 1973 inventories. In addition, the Administration made the following assumptions in establishing the proposed 1974 amphetamine quota:

1. The legitimate usage of amphetamine in 1974 was projected to be approximately equal to that estimated by the Administration for 1973.

2. The market for anti-obesity preparations would remain extremely volatile due to a number of factors:

(a) The Food and Drug Administration was undertaking a review of certain new drug applications for products containing amphetamine.

(b) The Food and Drug Administration's recall of amphetamine combination preparations had not been completed.

(c) Practitioners had not yet begun to convert from usage of amphetamine combination preparations to single entity amphetamine preparations, to other anorectic drugs, or to non-drug therapy in sufficient volume to warrant a revision of the estimate of that conversion made by the Administration on April 4, 1973 (38 FR 8605).

(d) Three new anorectic drugs were about to be distributed in the United States for the first time. Their impact on the anti-obesity drug market was not determinable.

(e) The effects on prescribing practices of labeling changes on all anorectic drugs ordered by the Food and Drug Administration was not determinable.

(f) Commercial handlers had not made any significant long range adjustments in their inventory positions so that extra production to provide for inventory changeovers from combination to single entity preparation was unnecessary.

3. The Administrator had determined that no quantity of amphetamine should be manufactured for use in the preparation of combination anorectic drugs in 1974. The Food and Drug Administration had received requests for hearings regarding the new drug applications on several of these products (38 FR 8290, March 30, 1973). It was anticipated that these proceedings would be resolved before 1974.

4. Total inventories of amphetamine at the end of 1973 were projected to be equal to the inventory allowances provided in the 1973 quotas.

5. The 1973 amphetamine quota was designed to eliminate all excessive inventories in bulk and finished forms throughout the production pipeline. In order to do this, aggregate production was held below corresponding levels of demand. Because these materials are no longer available to meet the legitimate needs in 1974 (even with no increase in those needs from 1973 levels), aggregate production must increase to maintain a consistent supply as required by 21 U.S.C. 826(a).

Pursuant to section 701(j) of the Controlled Substances Act, the Commissioner of Food and Drugs, by letter dated July 20, 1973, to the Administrator recommended that "the amounts of these drugs (stimulants) needed for 1974 be set at the same level as for 1973 with the reservation that if experience shows current quotas are either too high or too low, we may recommend adjustments in the 1974 quota later in the year."

Since July 3, 1973 the Administrator has received data from manufacturers regarding estimated 1974 sales and year-end inventories and has had the opportunity to assess the validity of the operating assumptions. The legitimate usage of amphetamine has proven to be equal to that estimated by the Administration. However, the rate of conversion from combination to single entity products has been greater than estimated on April 4, 1973. Practitioners have not switched to other anorectic or non-drug therapy as anticipated. Further, it is too soon to determine the impact that the three newly marketed anorectic drugs will have on the anti-obesity drug market.

The proceedings before the Food and Drug Administration regarding new drug applications for certain amphetamine combination products are still pending. Until the proceedings are resolved, these products may still be marketed.

The 1973 amphetamine aggregate production quota achieved the desired effect of eliminating all excessive inventories in bulk and finished terms throughout the production levels. Because the aggregate production was held below corresponding levels of demand, inventory stocks have been significantly depleted.

In July 1973, the Food and Drug Administration recommended the amount of amphetamine products needed for 1974 be set at the same level as for 1973. The Food and Drug Administration has not recommended adjustments in the 1974 quota. The Drug Enforcement Administration has estimated the 1974 amphetamine usage to be slightly less than 1973 usage. However, the Drug Enforcement Administration finds it necessary to revise the proposed 1974 amphetamine aggregate production quota in order to replenish the depleted reserve stocks and inventories.

Therefore, based upon consideration of the above factors the Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) and delegated to the Administrator, Drug Enforcement Administration by section 0.100 of title 28 of the Code of Federal Regulations, proposes that the 1974 aggregate production quota for amphetamine expressed in grams in terms of its anhydrous base, be established as follows:

Basic class: Amphetamine.
Proposed 1974: 3,657,153.

All interested persons are invited to submit their comments and objections in writing regarding this proposal. These comments or objections should state with particularity the issues concerning which the person desires to be heard. Comments and objections should be submitted in quintuplicate to the Office of Chief Counsel, Attention: Hearing Clerk, Drug Enforcement Administration, Department of Justice, Room 611, 1405 Eye Street, NW., Washington, D.C. 20537, and must be received by April 30, 1974. If a person believes that any issue raised by him warrants a hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator, in his sole discretion, considers to warrant a hearing, the Administrator shall order such hearing in the FEDERAL REGISTER summarizing the issues to be heard and setting the time for the hearing, which shall not be less than 30 days after the date of publication.

Dated: March 27, 1974.

JOHN R. BARTELS, Jr.,
Administrator,
Drug Enforcement Administration.

[FR Doc.74-7663 Filed 4-2-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

MARINE MAMMALS

Notice of Issuance of Permit

On February 22, 1974, a notice was published in the FEDERAL REGISTER (39 FR 6747) that an application had been filed with the Bureau of Sport Fisheries and Wildlife by the Division of Wildlife Research, Bureau of Sport Fisheries and Wildlife, for a permit to take, by immobilization, up to 125 Polar Bears (*Ursus maritimus*), to obtain parts from up to 50 Polar Bears taken by Indians, Aleuts, or Eskimos, and to import parts from up to 20 Polar Bears taken in Canada. All polar bears and parts thereof were to be utilized for scientific research.

Notice is hereby given that on March 25, 1974, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Bureau has issued a permit to the Division of Wildlife Research, Bureau of Sport Fisheries and Wildlife, subject to certain conditions set forth therein. The permit is available for public inspection during normal business hours at the Bureau's office in Suite 600, 1612 K Street, NW., Washington, D.C., and at the office of the Alaska Area Director, 813 "D" Street, Anchorage, Alaska.

Dated: March 29, 1974.

LYNN A. GREENWALT,
Director, Bureau of Sport Fisheries and Wildlife.

[FR Doc.74-7574 Filed 4-2-74;8:45 am]

Bureau of Land Management

[CA 696]

CALIFORNIA

Order Providing for Opening of Public Lands

MARCH 26, 1974.

1. In exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272 (43 U.S.C. 315g)), as amended, the following described lands have been conveyed to the United States:

MOUNT DIABLO MERIDIAN

T. 13 N., R. 6 W.,
Sec. 2, Lot 2, all that portion of the SW¼NE¼ lying easterly of the west boundary of State Highway 20 as described in the deed from Leisure Properties, Inc., a corporation, to Norman C. Pease, dated October 19, 1970, recorded October 22, 1970, in Book 646 of Official Records of Lake County at Page 158; and all that portion of the SE¼NW¼ lying easterly of the east boundary of the State Highway as described in the deed from Olive M. Mason and J. E. Mason, her husband, and Mary Mary S. Mason and S. G. Mason, her husband, to the State of California, dated August 12, 1931, recorded April 25, 1932 in Book 78 of Official Records of Lake County at Page 347, excepting from Lot 2 (NW¼NE¼) sec. 2, T. 13 N., R. 6 W., MDM., California, all that portion thereof as described in the deed from Olive M. Mason and J. E. Mason, her husband, and Mary S. Mason and S. G. Mason, her husband, to the State of California, dated August 12, 1931, recorded April 25, 1932, in Book 78 of the Official Records of Lake County at page 347.

The area described aggregates 77.68 acres in Lake County, California.

2. The above described tract of land has been acquired to block up Federal lands; provide improved wildlife habitat and watershed management in the area. The topography is uniformly steep and runoff is moderate to rapid. The soil is variable but generally of quality capable of supporting annual grasses, shrubs and few oak trees.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws, the lands will at 10 a.m., on May 1, 1974, be open to the operation of the public land laws. All valid applications received at or prior to 10 a.m., shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Except as to the land within the SW¼NE¼ sec. 2, T. 13 N., R. 6 W., MDM., the lands will be open to location under the United States mining laws and to applications and offers under the mineral leasing laws at 10 a.m., on ——.

Mineral rights in the land within the SW¼NE¼ sec. 2, T. 13 N., R. 6 W., MDM., were not exchanged, therefore the mineral status of this parcel is not affected by this order.

Inquiries concerning the lands should be directed to the Bureau of Land Management, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

WALTER F. HOLMES,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-7637 Filed 4-2-74;8:45 am]

[New Mexico 20412 (943a)]

NEW MEXICO

Notice of Application

MARCH 26, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), El Paso Natural Gas Company has applied for dehydration site right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 23 S., R. 28 E.,
Sec. 1, Lot 3, S½NW¼

This dehydration site right-of-way is located in Federal lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analysis necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Chief, Branch

of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1449, Santa Fe, NM 87501.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-7607 Filed 4-2-74;8:45 am]

Office of the Secretary

[INT DES 74/38]

PROPOSED KOFA WILDERNESS AREA, ADDITIONS TO KOFA NATIONAL WILDLIFE REFUGE, ARIZONA AND WITHDRAWAL FROM MINING AND MINERAL LEASING

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 Kofa Wilderness Area, Additions to Kofa National Wildlife Refuge, and Withdrawal from Mining and Mineral Leasing, and invites written comments on or before May 20, 1974.

The proposal recommends that the 663,700-acre Kofa Game Range, located in Yuma County, Arizona, be administered solely by the Bureau of Sport Fisheries and Wildlife; that the name be changed to the Kofa National Wildlife Refuge; that the Secretary of the Interior add approximately 83,500 acres of public domain to the Kofa National Wildlife Refuge and withdraw the entire 747,200 acres from all forms of entry under the public land laws, including the mining and mineral leasing laws; that approximately 542,600 acres of the Kofa Refuge be designated as wilderness within the National Wilderness Preservation System; that motorized access by the Bureau of Sport Fisheries and Wildlife be continued along nine established trails within the wilderness and that overflight use by the Department of the Army for aircraft and artillery be continued.

Copies of the draft statement are available for inspection at the following locations:

Bureau of Sport Fisheries and Wildlife
Box 1306
Albuquerque, New Mexico

Headquarters
Kofa Game Range
Box AP
Blythe, California 92225

Bureau of Sport Fisheries and Wildlife
Office of Environmental Coordination
Department of the Interior
18th and "C" Streets NW., Rm 2246
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: March 27, 1974.

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

[FR Doc.74-7577 Filed 4-2-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

MEAT IMPORT LIMITATIONS

Second Quarterly Estimate

Public Law 88-482, approved August 22, 1964 (hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lamb (TSUS 106.20), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of such articles, in the absence of limitations during such calendar year, would equal or exceed 110 percent of the estimated quantity of such articles, prescribed by section 2(a) of the Act.

In accordance with the requirements of the Act, the following second quarterly estimate is published.

1. The estimated aggregate quantity of such articles which would, in the absence of limitations under the Act, be imported during calendar year 1974 is 1,575.0 million pounds.

2. The estimated quantity of such articles prescribed by section 2(a) of the Act during the calendar year 1974 is 1,027.9 million pounds.

Since the estimated quantity of imports continues to exceed 110 percent of the estimated quantity prescribed by section 2(a) of the Act, under the Act limitations for the calendar year 1974 on the importation of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lambs (TSUS 106.20), are required to be imposed but may be suspended. Such limitations were imposed by Proclamation 4272 of February 26, 1974, and were suspended during the balance of the calendar year 1974 unless because of changed circumstances further action under the Act becomes necessary.

Done at Washington, D.C., this 28th day of March 1974.

EARL L. BUTZ,
Secretary.

[FR Doc.74-7683 Filed 4-2-74;8:45 am]

Soil Conservation Service

EMERGENCY WATERSHED PROTECTION PROGRAM

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental impact statement for the Emergency Watershed Protection Program, USDA-SCS-ES-FP-(ADM)-74-1-(D).

The environmental impact statement concerns a nationwide program to install emergency measures to safeguard lives and property from floods and the products of erosion whenever fire or other natural element or force causes a sudden impairment of a watershed. Frequently used emergency measures include: establish vegetative cover, gully control structures, streambank protection, removal of debris from channels, and emergency repair of existing dams, dikes and other water control structures.

A limited supply is available at the following location to fill single copy requests:

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

Emergency Watershed Protection Program
Notice of Availability of Draft Environmental Impact Statement

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

Comments concerning the proposed action or requests for additional information should be addressed to Kenneth E. Grant, Administrator, Soil Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Comments must be received on or before June 14, 1974, in order to be considered in the preparation of the final environmental impact statement.

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

Dated: March 28, 1974.

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

[FR Doc.74-7604 Filed 4-2-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

[Case 457]

WALTER BASTA AND OMNITRONIC ELEKTRONISCHE GERATE G.m.b.H.

Order Denying Export Privileges

By charging letter dated August 17, 1973, respondent Walter Basta and his wholly-owned company, Omnitronic Electronische Gerate, Vienna, Austria, were charged by the Director, Compliance Division, Office of Export Administration, with violations of the Export Administration Act and regulations issued thereunder. The charging letter was duly served and respondents acknowledged receipt. They did not answer the charging letter and, pursuant to § 388.4 of the regulations, they were held in default. The Acting Hearing Commissioner

held an informal hearing on February 27, 1974, at which evidence bearing on the charges was presented by the Compliance Division.

The charging letter alleged, in essence, that Basta, individually and through his wholly-owned company, Omnitronic, made representations to Commerce to obtain the export from the U.S. of a strategic neutron generator, ostensibly for Turkey, but actually for reexport by them to the USSR, without authorization of Commerce.

The Acting Hearing Commissioner considered the evidence bearing on these charges, made findings and conclusions, and submitted to the undersigned a report summarizing the same and recommending an appropriate sanction. After considering this record, I adopt the following findings made by the Acting Hearing Commissioner:

Findings of fact. 1. Respondents Basta and his wholly-owned company, Omnitronic, were, at the time of this transaction, residing and doing business in Vienna, Austria, in the export-import trade.

2. In June 1972, Basta, for himself and Omnitronic, executed and caused to be submitted to Commerce, a single transaction consignee-purchaser statement, representing that the Technical University, Ankara, Turkey, as ultimate consignee, through Omnitronic, was ordering from Kamen Sciences Corporation, Colorado, one Kamen neutron generator and accessories, costing $9,500, through Omnitronic, for use by said consignee in scientific research work on nuclear energy.

3. In reliance on those representations, Commerce licensed the export of said generator by Kamen, to the Technical University, Ankara, on July 14, 1972. The export took place on July 21.

4. Thereafter, Basta caused the generator to be reshipped to Vienna, Austria, instead of delivering it to the Technical University, Ankara. On arrival in Vienna, the generator was in August 1972, shipped by Basta to the USSR, contrary to the prior representations to Commerce and without Commerce's authorization.

5. Investigation revealed that Technical University, Ankara, had not in fact ordered the generator from Kamen, through Omnitronic, or otherwise.

In an effort to mitigate the foregoing actions, respondent Basta, during the course of the investigation of this matter, told U.S. Embassy officials at Vienna that he had an order for the generator from the Turkish University, but, because of delays in shipment, the order was canceled. Thereafter, he allegedly sought another customer and was, he said, told by Kamen's Vienna agent that the generator could go to any county not at war. On this basis he allegedly sold the generator to the USSR. Later, when he and his company were subject to a temporary denial by Commerce pending completion of the investigation and compliance proceedings in this matter, respondents told Commerce that they thought the generator was not strategic and could go to Eastern European countries, again on the basis of alleged communications by Kamen's Vienna agent.

These defenses are not supported by any documentary evidence, all of which Basta said in June 1973 was then tied up in court proceedings in Austria.

In view of respondent's surreptitious removal of the neutron generator from an airfreight warehouse in Vienna and his roundabout reshipment of the generator to the USSR, without paying Kamen or its Vienna agent the purchase price, credence is not given to these defenses.

Based on the foregoing findings and notwithstanding the foregoing defenses, I have concluded that respondents violated the U.S. export regulations: (a) By making misrepresentations of consignee, end user and ultimate destination to cause Commerce to issue a validated export license, contrary to § 387.5 of said regulations; and (b) by knowingly reexporting a U.S. origin commodity to the USSR, without prior Commerce authorization, contrary to §§ 387.4 and 387.6 of the regulations.

During the investigation of these violations (since May 31, 1973) respondents have been subject to a temporary denial of all U.S. export privileges (See 38 FR 14686 and 38 FR 20486). Said denial action is to remain in effect until completion of these compliance proceedings, i.e., the issuance of this order. In addition, it is understood that Austrian government authorities have instituted criminal proceedings against respondent Basta in regard to his surreptitious removal of the neutron generator from an Austrian airfreight warehouse, and his roundabout shipment of it from Austria to the USSR, via London, without paying Kamen or its Vienna agent for the generator.

Now, after considering the above record and the report and recommendations of the Acting Hearing Commissioner, it is my opinion that, because respondent's violations were willful and knowingly, the Acting Hearing Commissioner's recommendation of a 3 year denial of all export privileges from the effective date of this order is insufficient to achieve effective enforcement of the export control law. Having in mind those grave features of the violations, as well as the ameliorating circumstance that this appears to be respondent's first violation of U.S. export controls, it is my opinion that a denial of all export privileges until May 31, 1978 (which is 5 years from the date of the order temporarily denying them U.S. export privileges, i.e., May 31, 1973), would be fair and just, and would achieve the remedial objectives of the export control law, when coupled with the probationary provisions recommended by the Acting Hearing Commissioner, as set forth in Part IV of this order. *Accordingly, it is hereby ordered,*

I. All outstanding validated export licenses in which respondents appear or participate in any manner or capacity are hereby revoked and shall be returned forthwith to the Office of Export Administration, Department of Commerce, for cancellation.

II. Except as qualified in Paragraph IV hereof, the respondents, until May 31, 1978, are hereby denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transactions involving commodities or technical data exported from the United States in whole or in part, or to be exported, or which are otherwise subject to the Export Control Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control documents; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data; (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their successors, representatives, agents, and employees, and also to any person, firm, corporation, or other business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. At any time after the effective date of this order the respondents may apply to have some portion or all of the effective period of denial of their export privileges held in abeyance while they remain on probation. Any such application must be supported by (a) the documentary evidence which respondents heretofore alleged would support their foregoing defenses and which they then said was tied up in court proceedings in Austria; and (b) evidence showing their compliance with the terms of this order and the prior temporary denial of export privileges, during the times they have been operative. For such application respondents shall also make available and permit examination by the Office of Export Administration of such of their records as it deems necessary to determine whether respondents have complied with this order. Such application will be considered on its merits and in the light of conditions and policies existing at that time. The respondents' export privileges may then be restored and probation imposed, under such terms and conditions as may then appear to be appropriate.

V. During the time when the respondents or other parties within the scope of this order are prohibited from engaging in activity within the scope of Part II hereof, no person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of

East-West Trade, shall do any of the following acts, directly or indirectly, in any manner or capacity, on behalf of or in any association with the respondents or such other parties may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any such respondents or other person denied export privileges within the scope of this order; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

This order shall become effective April 3, 1974.

Dated: April 3, 1974.

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

[FR Doc.74-7681 Filed 4-2-74;8:45 am]

Maritime Administration

CONSTRUCTION OF LNG VESSELS OF 125,000 TO 130,000 CUBIC METERS

Notice of Intent Regarding Recomputation of Foreign Cost

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of section 502(b) of the Merchant Marine Act 1936, as amended, to recompute the estimated foreign cost of the construction of LNG vessels of 125,000 to 130,000 cubic meters since there appears to have been a significant change in shipbuilding market conditions since the previous determination of estimated foreign cost was made.

Any person, firm or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business of May 3, 1974, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th & E Street, NW., Washington, D.C. 20230.

Dated: March 29, 1974.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.74-7680 Filed 4-2-74;8:45 am]

National Oceanic and Atmospheric Administration

NEW ENGLAND AQUARIUM, ET. AL.

Notice of Receipt of Applications for Public Display Permits

Notice is hereby given that the following applicants have applied in due form for permits to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 and the regulations governing the taking and importing of marine mammals.

1. New England Aquarium, Central Wharf, Boston, Massachusetts 02110, to take and/or import for public display two (2) grey seals (*Halichoerus grypus*), four (4) Atlantic harbor seals (*Phoca vitulina concolor*), six (6) dolphins to be composed of the following three species as available for capture: Atlantic bottlenosed dolphins (*Tursiops truncatus*); Pacific white-sided dolphins (*Lagenorhynchus obliquidens*); or Atlantic white-sided dolphins (*Lagenorhynchus acutus*).

The grey seals will be imported from Montreal, Canada, where they are currently in the possession of the Montreal Aquarium. These seals were taken, as authorized by the Director General, the Canadian Department of Environment, from Sable Island in January 1973.

The harbor seals will be collected from the coast of Maine in the vicinity of Rockport, Maine, using either hoop nets or by hand, as indicated by the activity of the seals.

The California sea lions will be collected from the California Channel Islands. The animals will be taken while on land by use of hoop nets. Collection will not be attempted under conditions which would cause undue physical harm or physiological stress to the animals.

The Atlantic bottlenosed dolphins will be collected from inshore waters of the State of Florida by means of net encirclement.

The Atlantic and Pacific white-sided dolphins will be collected from the Gulf of Maine or the coast of southern California, respectively, using a head net.

All marine mammals to be taken from the wild will be collected during 1974 by and/or under the supervision of the Director and Head Trainer of New England Aquarium. All animals transported over long distances by air freight or over short distances by truck will be accompanied by either Mr. Prescott, Director of New England Aquarium or Mr. Allen, Head Trainer.

The harbor seals and grey seals will be maintained in a 34-foot-long, 24-foot-wide and 4-foot-deep pool, with a 4-foot by 8-foot haulout area. These seals will be exhibited in a non-performing display.

The California sea lions and dolphins will be maintained in the marine mammal pavilion, which consists of four holding and training pools, each 35-feet long, 22-feet wide, and 6-feet deep, and a main performance pool, 44-feet long, 30-feet wide and 12-feet deep. All pools contain filtered sea water, with turnover filtration rates of once every 40 to 90 minutes. The sea lions and dolphins will be displayed in the main performance pool as part of an educational performance incorporating the routine behaviors normally used in marine mammal shows.

The Managing Director, Mr. John H. Prescott, has worked with marine mammals for 16 years, as curator and manager for Marineland of the Pacific as well as at the New England Aquarium. Mr. William Allen, Head Trainer, has worked with cetaceans and pinnipeds for 11 years at Aquaroma in Philadelphia, Pennsylvania, and at Marine World in Redwood City, California. The Curator, Mr. Louis Garibaldi, has over 7 years experience with marine mammals. The consulting veterinarian, Dr. Joseph Geraci, D.V.M., Ph.D., of the Department of Pathology, University of Guelph, provides the required medical attention.

The New England Aquarium maintains and displays aquatic animals for educational and recreational purposes, as well as performing research in the areas of aquatic animal husbandry, and chemical and biological oceanography. The requested marine mammals will be utilized to enlarge the display collection, which is made possible by the addition of two new facilities, the seal pool and the marine mammal pavilion. The display of these animals, while recreational in nature, is designed to further educate the public with respect to the physical and mental capabilities of marine mammals, and to increase public awareness and appreciation of these animals. An estimated 1 million people will visit the New England Aquarium facilities annually.

2. Six Flags Over Georgia, P.O. Box 43187, Atlanta, Georgia 30336, to take four (4) California sea lions (*Zalophus californianus*) for public display.

The sea lions will be taken by a professional collector, under appropriate wind and temperature conditions, from the California Channel Islands. Collection will take place on land, using hoop nets. The sea lions will be acclimated to captivity by the collector and transported by commercial airline to the Six Flags facility.

The sea lions will be maintained and displayed during the spring and summer months in a pool, 24-feet long, 9 and one-half feet wide and 10-feet deep, with two haulout areas and a sunscreen to provide shade. During the winter months the sea lions will be maintained in two pools at the Grant Park Zoo. The outdoor pool at Grant Park is 34 feet 8 inches long, 29 feet 8 inches wide, and 6 feet 8 inches maximum depth. The indoor pool is 12 feet 6 inches long, 4 feet wide and 2 feet deep. The outdoor pool contains fresh water. The indoor pool contains artificial salt water.

Mr. Richard Allen has been supervisor for the zoo for two years. Mr. William Feast has cared for sea lions for three years. Two licensed veterinarians are available for consultation, and provide any treatment required.

The sea lions will be displayed in a feeder-pool exhibit from March through November. An estimated 1 million people visit the zoo annually.

3. Quinlan Marine Attractions, Route 3, Lincolnton, Lincoln County, North Carolina 28092, to take five (5) Atlantic bottlenosed dolphins (*Tursiops truncatus*) for public display at Kings Dominion, Richmond, Virginia.

The dolphins will be taken by a professional collector from the Gulf of Mexico, by means of an encircling net. The capture and subsequent transport will be supervised by Quinlan Marine Attraction personnel.

The dolphins will be transported to the training facility in Lincolnton, North Carolina, by truck. The animals will be accompanied by two qualified trainers. At the training facility, the animals will be maintained in pools, 25 feet in diameter and 8-feet deep. No more than two dolphins will be maintained in any one pool.

Following training, the dolphins will be transferred to Kings Dominion, Richmond, Virginia, where they will be displayed. At the display facility, the dolphins will be maintained in two holding pools, each 20-feet wide, 20-feet long and 10-feet deep. The dolphins will perform in a pool, 35-foot in diameter and 10-feet deep.

Quinlan Marine Attractions has twelve trainers with three to seven years experience in the care and training of dolphins, and six people with two or more years experience in training dolphins. Three trainers will be assigned on a full-time basis to the Kings Dominion facility. A consulting veterinarian, Dr. James McCormick, as available to provide the necessary medical attention.

Quinlan Marine Attractions has been for over ten years contracting to present dolphins in shows on a permanent basis for various theme parks. The facilities for maintaining and displaying the dolphins are built to the specifications of Mr. Ralph Quinlan. The dolphins are then acquired and trained to carry out the required performances. The facilities and animals are always under the sole control of Mr. Quinlan and his employees.

At the display facility, the animals perform in pairs a maximum of six times daily. An estimated two million people will view the Kings Dominion displays annually.

4. Pittsburgh Zoological Society, P.O. Box 5072, Pittsburgh, Pennsylvania 15206, to import two (2) harbor seals (*Phoca vitulina*) from Montreal, Quebec, Canada, for public display.

The harbor seals were taken in January 1973, from Sable Island by the staff of the Montreal Aquarium. The animals were initially taken for a research project in conjunction with the Fisheries Research Board of Canada.

The seals would be imported by June 1974, via commercial airline. A qualified member of the Pittsburgh Children's Zoo staff, familiar with maintenance requirements of seals, will accompany the seals in transit.

The seal facility at the Children's Zoo consists of a kidney shaped pool, 25 feet long, 11 feet wide and 5 feet deep, with a 150-square-foot haulout area. The seal enclosure is surrounded by a steel, wood and fiberglass fence. Care and maintenance for the seals will be provided by a staff under direct supervision of Mr. Richard M. Segedi, who has worked with pinnipeds for 13 years, at the Cleveland Aquarium and the Pittsburgh Zoo. The requested seals will be displayed in a non-performing exhibit at the Children's Zoo.

The Pittsburgh Zoological Society is a non-profit corporation founded for the improvement of the Pittsburgh Zoo. All buildings, inventory, and property procured by the Society become the property of the City of Pittsburgh.

The arrangements for transporting and maintaining marine mammals, as described in the above four applications, have been personally reviewed by licensed veterinarians, who have certified that such arrangements are adequate to provide for the well-being of the requested animals.

Documents submitted in connection with these applications are available as follows:

Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, telephone 202-343-4543 (all applications);

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, telephone 617-281-0640 (applications 1, 3 and 4);

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702, telephone 813-893-3141 (applications 1, 2 and 3);

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731, telephone 213-548-2575 (applications 1 and 2).

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is sending copies of the applications to the Marine Mammal Commission and the Committee of Scientific Advisors.

Interested parties may submit written data or views on these applications on or before May 3, 1974 to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

All statements and opinions contained in this notice in support of these applications are those of the applicants and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: March 26, 1974.

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

[FR Doc.74-7642 Filed 4-2-74;8:45 am]

WUERSIG, BERND GERHARD

Issuance of Permit for Marine Mammals

On January 3, 1974, notice was published in the FEDERAL REGISTER (39 FR 839), that an application had been filed with the National Marine Fisheries Service by Bernd Gerhard Wuersig, Division of Biological Sciences, University of New York, Stony Brook, New York 11790, for a permit to take, tag, release, and track eleven (11) dusky dolphins (*Lagenorhynchus obscurus*) for scientific research.

Notice is hereby given that, on March 28, 1974, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit to Bernd Gerhard Wuersig, subject to certain conditions set forth therein. The permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: March 28, 1974.

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

[FR Doc.74-7643 Filed 4-2-74;8:45 am]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the licensing policy of each Agency-sponsor.

Copies of Patent applications, either paper copy (PC) or microfiche (MF), can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22151, at the prices cited. Requests for copies of patent applications must include the PAT-APPL number and the title.

Paper copies of patents cannot be purchased from NTIS but are available from the Commissioner of Patents, Washington, D.C. 20231, at $0.50 each.

Requests for licensing information should be directed to the address cited below for each agency.

DOUGLAS J. CAMPION,
Patent Program Coordinator,
National Technical Information Service.

U.S. ATOMIC ENERGY COMMISSION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 3,752,876: Removal of Organic and Inorganic Iodine from a Gaseous Atmosphere; filed 26 August 1971, Patented 14 August 1973; not available NTIS.

Patent 3,753,920: Floride Reprocessing of Breeder Fuels; filed 12 August 1971, Patented 21 August 1973; not available NTIS.

Patent 3,755,073: Hybrid Laser Plasma Target—Neutral Beam Injection Fusion System; filed 21 June 1971, Patented 28 August 1973; not available NTIS.

Patent 3,755,079: Nuclear Reactor Plant with Integral Entombment; filed 12 December 1969, Patented 28 August 1973; not available NTIS.

Patent 3,760,225: High Current Plasma Source; filed 6 June 1972, Patented 18 September 1973; not available NTIS.

Patent 3,760,286: Electron Beam Generator; filed 18 October 1972, Patented 18 September 1973; not available NTIS.

Patent 3,761,720: Method of Locating Defects in a High Voltage Insulating Tube; filed 30 August 1972, Patented 25 September 1973; not available NTIS.

DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent 3,702,078: Dynamically Stabilized Accelerometer and Rate Gyro Device; filed 22 November 1971, Patented 7 November 1972; not available NTIS.

Patent 3,702,317: Method of Making Arylene Modified Siloxazanes Incorporating Cyclodisilazane Structures; filed 18 November 1970, Patented 7 November 1972; not available NTIS.

Patent 3,702,318: Thermally Stable Heterocyclic Anthraquinone Polyimides and Method for Their Synthesis; filed 11 August 1971, Patented 7 November 1972; not available NTIS.

Patent 3,702,405: Electrically Variable Capacitance; filed 17 November 1971, Patented 7 November 1972; not available NTIS.

Patent 3,702,478: Antenna and Antenna Coupling Apparatus; filed 9 September 1971, Patented 7 November 1972; not available NTIS.

Patent 3,702,479: Space Diversity Antenna System for UHF Satellite Communications for Helicopters; filed 7 July 1971, Patented 7 November 1972; not available NTIS.

Patent 3,702,481: Satellite Unfurlable Antenna Array; filed 16 July 1971, patented 7 November 1972; not available NTIS.

Patent 3,703,870: Coupler-Cargo Pallet/Container; filed 10 March 1971, Patented 28 November 1972; not available NTIS.

Patent 3,703,881: Apparatus for Ultra-High Vacuum in situ Thin Film Studies; filed 13 May 1971, Patented 28 November 1972; not available NTIS.

Patent 3,703,891: Multi-Purpose Helmet Assembly Especially for Use With a Catheter; filed 28 August 1970, Patented 28 November 1972; not available NTIS.

Patent 3,703,908: Squirt Cleaning Poppet Valve and Seat; filed 26 July 1971, Patented 28 November 1972; not available NTIS.

Patent 3,704,053: Electrostatic Spatial Filter for a High Power Laser; filed 10 December 1970, Patented 28 November 1972; not available NTIS.

Patent 3,704,178: Process for Forming a P–N Junction in a Semiconductor Material; filed 5 November 1969, Patented 28 November 1972; not available NTIS.

Patent 3,704,370: Radiographic Inspection Technique; filed 9 April 1971, Patented 28 November 1972; not available NTIS.

Patent 3,704,428: Carbon Monoxide Laser from Helium-Air Methane Mixture; filed 4 October 1971, Patented 28 November 1972; not available NTIS.

Patent 3,704,464: Method of Suppressing Selected Antenna Radiation Pattern Side Lobes While Retaining Maximum Directive Gain; filed 10 November 1970, Patented 28 November 1972; not available NTIS.

Patent 3,704,466: Survivable Telescoping Antenna; filed 22 April 1971, Patented 28 November 1972; not available NTIS.

Patent 3,705,426: Pressure Suit Joint System; filed 27 August 1971, Patented 12 December 1972; not available NTIS.

Patent 3,705,875: Thermally Stable Polyimides; filed 11 August 1971, Patented 12 December 1972; not available NTIS.

Patent 3,706,226: Calorimeter for Objects of Low Solar Absorptivity; filed 5 May 1971, Patented 18 December 1972; not available NTIS.

Patent 3,706,608: Combustion Tailoring of Solid Propellants by Oxidizer Encasement; filed 24 March 1970, Patented 19 December 1972; not available NTIS.

Patent 3,706,989: Digital Motion Compensation System for Radar Platforms; filed 28 October 1970, Patented 19 December 1972; not available NTIS.

Patent 3,706,994: Automatic Confidence Test for ECM Repeater; filed 1 October 1970, Patented 19 December 1972; not available NTIS.

Patent 3,723,023: Independent Self Adjusting Vibration Damper; filed 5 May 1971, Patented 27 March 1973; not available NTIS.

Patent 3,723,740: Directionally Sensitive Radiation Detector System Using Ionization Chambers; filed 29 April 1971. Patented 27 March 1973; not available NTIS.

Patent 3,724,048: Method of Preventing the Plugging of Liquid Coolant Passages of a Regeneratively Cooled Rocket Engine Thrust Chamber; filed 16 November 1971, Patented 3 April 1973; not available NTIS.

Patent 3,724,271: Spinning Radiosonde Configuration; filed 30 December 1971. Patented 3 April 1973; not available NTIS.

Patent 3,724,386: Ablative Nose Tips and Method for Their Manufacture; filed 24 June 1970, Patented 3 April 1973; not available NTIS.

Patent 3,724,484: Particle Density Control System for Colloid Core Nuclear Reactor; filed 13 July 1971, Patented 3 April 1973; not available NTIS.

Patent 3,724,930: Method of Forming and Cooling Pinhole Spatial Filter for High Power Laser; filed 21 July 1972, Patented 3 April 1973; not available NTIS.

Patent 3,724,784: Wing and Thrust Augmentor; filed 10 September 1971, Patented 3 April 1973; not available NTIS.

Patent 3,724,788: Rapid Extraction System; filed 3 June 1971, Patented 3 April 1973; not available NTIS.

Patent 3,724,814: Assembly of a Pallet Towing Bridle and Method of Use; filed 1 December 1971, Patented 3 April 1973; not available NTIS.

Patent 3,724,817: Long Line Loiter Technique; filed 10 December 1970, Patented 3 April 1973; not available NTIS.

Patent 3,725,129: Method for Preparing Pasted Nickel Hydroxide Electrode; filed 14 February 1972, Patented 3 April 1973; not available NTIS.

Patent 3,725,175: Process for Curing Polyferrocenylenes; filed 14 September 1971, Patented 3 April 1973; not available NTIS.

Patent 3,725,269: Method of Decontaminating an Organophosphorus Insecticide; filed 24 November 1971, Patented 3 April 1973; not available NTIS.

Patent 3,725,273: Grease Composition; filed 3 December 1969, Patented 3 April 1973; not available NTIS.

Patent 3,725,282: Passive Wake Quencing System Using Nonablating Material, Sulfur and a Solid Noble Gas Fluoride; filed 15 April 1971, Patented 3 April 1973; not available NTIS.

Patent 3,725,564: Grounded Multilayer Insulation; filed 23 September 1971, Patented 3 April 1973; not available NTIS.

U.S. Department of Agriculture, Chief, Research Agreements and Patent Mgmt. Branch, Federal Building, General Services Division, Agricultural Research Service, Hyattsville, Maryland 20782.

Patent Application 314,555: Process to Improve Recyclability of Wax-Treated Paper and Paperboards; 13 December 1972; PC$4.00/MF$1.45.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets, NW., Washington, DC 20240.

Patent 3,298,427: Method and Apparatus for Dropwise Condensation; filed 24 December 1964, Patented 17 January 1967; not available NTIS.

Patent 3,298,935: Preparation of Reactive Metal Solutions by Electrodeposition Methods; filed 13 April 1965, Patented 17 January 1967; not available NTIS.

Patent 3,301,634: Process for Decomposing Manganese Sulfate to Form Manganous Oxide and Sulfur Dioxide; filed 9 July 1963, Patented 31 January 1967; not available NTIS.

Patent 3,305,007: Dropwise Condensation; filed 31 March 1965, Patented 21 February 1967; not available NTIS.

Patent 3,309,292: Method for Obtaining Thick Adherent Coatings of Platinum Metals on Refractory Metals; filed 28 February 1964, Patented 14 March 1967; not available NTIS.

Patent 3,309,710: Flood Hydrograph and Rain-Gage Recorder; filed 1 October 1965, Patented 14 March 1967; not available NTIS.

Patent 3,310,984: Automatic Plankton Sampling System; filed 17 November 1964, Patented 28 March 1967; not available NTIS.

Patent 3,312,011: Electrical Trawl Net; filed 28 July 1964, Patented 4 April 1967; not available NTIS.

Patent 3,313,301: Instrument to Implant Tags in Macro-Organisms; filed 16 January 1964, Patented 11 April 1967; not available NTIS.

Patent 3,313,412: Recovery of Molybdenite from Copper Sulfide Concentrates by Froth Flotation; filed 5 August 1964, Patented 11 April 1967; not available NTIS.

Patent 3,319,247: Sound Producing Mechanism for Startling Birds; filed 10 March 1965, Patented 9 May 1967; not available NTIS.

Patent 3,320,137: Multiflash Distillation with Recycle of Concentrate Through Up-Stream Condenser and Flash Stages; filed 23 March 1964, Patented 16 May 1967; not available NTIS.

Patent 3,321,271: Synthesis of Aluminum Silicate Whiskers; filed 2 February 1965, Patented 23 May 1967; not available NTIS.

Patent 3,323,652: Multimembrane Apparatus for Demineralizing Liquids; filed 20 March 1963, Patented 6 June 1967; not available NTIS.

Patent 3,331,356: Sterilization of Fish in their Aquatic Environment to produce Maximum Size and Weight per Unit of Water Surface; filed 22 November 1965, Patented 18 July 1967; not available NTIS.

Patent 3,341,344: Road Binder and Surface Coating from Coal; filed 2 March 1965, Patented 12 September 1967; not available NTIS.

Patent 3,341,797: Dynamic Pressure Gage; filed 5 May 1965, Patented 12 September 1967; not available NTIS.

Patent 3,344,699: Device for Sensing Thermal Gradients; filed 23 August 1963, Patented 3 October 1967; not available NTIS.

Patent 3,344,928: Humic Acid as an Additive in a Process of Forming a Salt-Rejecting Membrane; filed 9 May 1966, Patented 3 October 1967; not available NTIS.

Patent 3,347,101: Freezing-Type Sediment Sampler; filed 15 September 1965, Patented 17 October 1967; not available NTIS.

Patent 3,353,021: Apparatus and Process for Continuous Measurement of Moisture in Moving Coal by Neutron Thermalization; filed 29 September 1964, Patented 14 November 1967; not available NTIS.

Patent 3,355,376: Hydrocracking of Polynuclear Hydrocarbons; filed 15 November 1965, Patented 28 November 1967; not available NTIS.

Patent 3,360,333: Fluor-Micas and Fluor-Amphiboles and Methods for Making Same; filed 31 March 1965, Patented 26 December 1967; not available NTIS.

Patent 3,361,559: Method for Antimony Precipitation of Mercury; filed 16 February 1965, Patented 2 January 1968; not available NTIS.

Patent 3,363,975: Process for Descaling Sea Water; filed 21 January 1965, Patented 16 January 1968; not available NTIS.

Patent 3,369,605: Method of Treating Oil Wells to Prevent Water Coning; filed 19 August 1966, Patented 20 February 1968; not available NTIS.

Patent 3,371,049: Regeneration of Zinc Halide Catalyst Used Hydrocracking of Polynuclear Hydrocarbons; filed 15 November 1965, Patented 27 February 1968; not available NTIS.

Patent 3,372,577: Pressure Measuring Device Employing a Diaphragm and Strain Gages; filed 12 January 1967, Patented 12 March 1968; not available NTIS.

Patent 3,373,097: Method for Separation of a Metal-Containing Halide Phase From a

Gangue-Containing Silicate Phase to Obtain the Metal; filed 16 February 1965, Patented 12 March 1968; not available NTIS.

Patent 3,374,677: Pressure Measuring Device Employing a Diaphragm-Type Pressure Responsive Unit; filed 21 December 1965, Patented 26 March 1968; not available NTIS.

Patent 3,375,180: Electrochemical Preparation of Metal Sulfides; filed 2 April 1965, Patented 26 March 1968; not available NTIS.

Patent 3,379,498: Recovery of Potassium from Phosphates; filed 19 April 1965, Patented 23 April 1968; not available NTIS.

Patent 3,382,038: Recovery of Potassium from Sea Water; filed 18 February 1965, Patented 7 May 1968; not available NTIS.

Patent 3,382,822: Method of Burning Coal; filed 24 February 1967, Patented 14 May 1968; not available NTIS.

Patent 3,382,977: Magnetic Separator with a Combination Field; filed 8 March 1965, Patented 14 May 1968; not available NTIS.

Patent 3,387,590: System for Regulating the Total Heat Output in a Burning Fluidized Bed Heat Exchanger or Boiler; filed 16 March 1967, Patented 11 June 1968; not available NTIS

Patent 3,389,685: Fish Culture by Squawfish Population Eradication; filed 12 September 1966, Patented 25 June 1968; not available NTIS.

Patent 3,390,045: Method of Making Paper from Mica Flakes Which Have Been Subjected to Hot Aqua Regia; filed 27 May 1965, Patented 25 June, 1968; not available NTIS.

Patent 3,390,985: Consolidation and Forming by High-Energy-Rate Extrusion of Powder Material; filed 10 August 1966, Patented 2 July 1968; not available NTIS.

Patent 3,395,987: Field Method for the determination of Silver in Soils and Rocks; filed 17 February 1966, Patented 6 August 1968; not available NTIS.

Patent 3,397,130: Process for Manganese Recovery from Leach Solutions; filed 20 October 1965, Patented 13 August 1968; not available NTIS.

Patent 3,397,946: Method of Producing Anhydrous Chromous Chloride from Chromium Metal; filed 8 June 1966, Patented 20 August 1968; not available NTIS.

Patent 3,399,033: Crystallization of Tungsten Disulfide from Molten Slags; filed 1 August 1966, Patented 27 August 1968; not available NTIS.

Patent 3,399,961: Method for Separating Na_2SO_4, from Brines or Bitterns; filed 3 January 1968, Patented 3 September 1968; not available NTIS.

Patent 3,420,869: Unsaturated Nitrated Esters; filed 13 April 1967, Patended 7 January 1969; not available NTIS.

Patent 3,424,676: Process for Removing Organic Contaminants Using Coal Adsorbents; filed 25 August 1965, Patented 28 January 1969; not available NTIS.

Patent 3,453,703: Longline Auto-Clip; filed 20 February 1968, Patented 8 July 1969; not available NTIS.

Patent 3,455,789: Process for Continuous Carbonization of Coal; filed 21 October 1965, Patented 15 July 1969; not available NTIS.

Patent 3,463,310: Separation Method; filed 27 February 1968, Patented 26 August 1969; not available NTIS.

Patent 3,463,607: Method of Synthesizing Asbestos; filed 4 November 1966, Patented 26 August 1969; not available NTIS.

Patent 3,464,432: Apparatus for Stabilizing Speed Control Action on Hydraulic Turbines; filed 8 May 1967, Patented 2 September 1969; not available NTIS.

Patent 3,482,443: Solid Inclusion, 3-Dimensional, Borehole Stressmeter; filed 24 April 1968, patented 9 December 1969; not available NTIS.

Patent 3,485,420: Particle Feeder with Walls of Progressively Increasing Resistance; filed 13 August 1968, patented 23 December 1969; not available NTIS.

Patent 3,516,808: Preparation of Carbon Dioxide Acceptors by the Melt Process; filed 19 July 1968, Patented 23 June 1970; not available NTIS.

Patent 3,516,810: Glass-Bonded Crystalline Minerals and Method of Production; filed 3 December 1968, Patented 23 June 1970; not available NTIS.

Patent 3,556,978: Hydrogasification of Carbonaceous Material; filed 9 April 1969, Patented 19 January 1971; not available NTIS.

Patent 3,629,159: Regeneration of Spent Zinc Halide Catalyst Using Preliminary High Pressure Hydrogen Solvent Extraction; filed 3 December 1969, Patented 21 December 1971; not available NTIS.

Patent 3,782,913: Two-Stage Gasification of Coal with Forced Reactant Mixing and Steam Treatment of Recycled Char; filed 23 March 1972, Patented 1 January 1974; not available NTIS.

Patent 3,783,116: Decomposition of Carbonyl Sulfide (COS) in Electric Charge; filed 26 January 1973, patented 1 January 1974; not available NTIS.

Patent 3,788,953: Turbulence Promotor System; filed 5 April 1971, Patented 29 January 1974; not available NTIS.

TENNESSEE VALLEY AUTHORITY, Division of Law, Muscle Shoals, Alabama 35660

Patent 3,785,796: Production of Urea-Ammonium Sulfate; filed 27 January 1972, Patented 15 January 1974; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA—Code GP-2, Washington, D.C. 20546.

Patent Application 421,702: Solar Energy Power System; filed 4 December 1973; PC $3.00/MF$1.45.

Patent Application 424,013: System for Measuring Drag Forces in a Turbulently Flowing Fluid; filed 12 December 1973; PC$3.00/MF $1.45.

Patent Application 424,038: Improved Bonding Method in the Manufacture of Continuous Regression Rate Sensor Devices; filed 12 December 1973; PC$3.00/MF$1.45.

Patent Application 426,155 A Variable Frequency Inverter for AC Induction Motors with Torque, Speed and Braking Control; filed 19 December 1973; PC $3.00/MF$1.45.

Patent Application 427,395: Reference Apparatus for Medical Ultrasonic Transducer; filed 21 December 1973; PC$3.00/MF$1.45.

Patent Application 427,795: Silica Reusable Surface Insulation; filed 26 December 1973; PC $3.00/MF$1.45.

Patent Application 428,995: Rotary Plant Growth Accelerating Apparatus; filed 27 December 1973; PC$3.50/MF$1.45.

Patent 3,780,151: Evacuated Displacement Compression Molding; Patented 18 December 1973; not available NTIS.

[FR Doc.74-7629 Filed 4-2-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[FAP 2B2757]

E. I. DUPONT DE NEMOURS AND CO.

Withdrawal of Petition for Food Additives

Pursuant to provisions of Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 Withdrawal of petitions without prejudice of the procedural food additive regulations (21 CFR 121.52), E. I. duPont de Nemours and Co., 1007 Market St., Wilmington, DE 19898, has withdrawn its petition (FAP 2B2757) notice of which was published in the FEDERAL REGISTER of July 24, 1972 (37 FR 14824) proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of basic copolymers manufactured by the catalytic copolymerization of ethylene and propylene containing as modifier not more than 5 weight-percent of total polymer units derived by copolymerization with 1,4-hexadiene, and utilizing 2,6-di(alphamethylbenzyl)*p*-cresol as a component of the stabilizing system.

Dated: March 26, 1974.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.74-7612 Filed 4-2-74;8:45 am]

[FAP 4A2998]

MARKEL, HILL & BYERLEY

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (Sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 348 (b)(5))), notice is given that a petition (FAP 4A2998) has been filed by Markel, Hill & Byerley, 1625 K St. NW., Washington, DC 20006, on behalf of PVO International, Inc., San Francisco, CA, proposing that the food additive regulations (21 CFR Part 121) be amended to provide for the safe use of methyl esters of edible fats and oils in dehydrating raisins.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: March 26, 1974.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.74-7613 Filed 4-2-74;8:45 am]

Health Services Administration

INDIAN HEALTH ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463) the Administrator, Health Services Administration, announces the meeting date and other required information for the following National Advisory body scheduled to assemble the month of April 1974:

Committee name	Date, time, place	Type of meeting and/or contact person
Indian Health Advisory Committee.	April 10-11, 9:00 a.m., April 10: Room 6A-55, April 11: Conference Room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—Contact Dr. John G. Todd, Room 6A-55, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code 301-443-3024.

Purpose. The Committee advises the Director, Indian Health Service on health and other related matters that have a bearing on the conduct of the Indian Health program, as well as current and proposed regulations and policies.

Agenda. The Committee will discuss the current total Indian Health Administrative program operations, more specifically, the recruitment and retention of physicians and health personnel to deliver comprehensive health care, pertinent pending legislation having a potential definite impact on the Indian Health program, and other specific items of departmental interest and concern regarding Indian Health endeavors.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information should contact the person listed above.

Dated: March 28, 1974.

ANDREW J. CARDINAL,
Associate Administrator for Management, Health Services Administration.

[FR Doc.74-7608 Filed 4-2-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

NORTH DAKOTA

Proposed Action Plan

The North Dakota State Highway Department has submitted to the Federal Highway Administration of the U.S. Department of Transportation a proposed Action Plan as required by Policy and Procedure Memorandum 90-4 issued on June 1, 1973. The Action Plan outlines the organizational relationships, the assignments of responsibility, and the procedures to be used by the State to assure that economic, social and environmental effects are fully considered in developing highway projects and that final decisions on highway projects are made in the best overall public interest, taking into consideration: (1) needs for fast, safe and efficient transportation; (2) public services; and (3) costs of eliminating or minimizing adverse effects.

The proposed Action Plan is available for public review at the following locations:

1. Office of Chief Engineer, Room 211, North Dakota State Highway Department, Capitol Grounds, Bismarck, North Dakota 58501.

2. North Dakota State Highway Department, Bismarck District Office, P.O. Box 879, Bismarck, North Dakota 58501.

3. North Dakota State Highway Departmen, Valley City District Office, P.O. Box 480, Valley City, North Dakota 58072.

4. North Dakota State Highway Department, Devils Lake District Office, P.O. Box 817, Devils Lake, North Dakota 58301.

5. North Dakota State Highway Department, Minot District Office, P.O. Box 1396, Minot, North Dakota 58701.

6. North Dakota State Highway Department, Dickinson District Office, P.O. Box 352, Dickinson, North Dakota 58601.

7. North Dakota State Highway Department, Grand Forks District Office, P.O. Box 1077, Grand Forks, North Dakota 58201.

8. North Dakota State Highway Department, Williston District Office, P.O. Box 698, Williston, North Dakota 58801.

9. North Dakota State Highway Department, Fargo District Office, 703 37th Street South, Fargo, North Dakota 58102.

10. North Dakota Division Office—FHWA, Federal Building, P.O. Box 1755, Bismarck, North Dakota 58501.

11. FHWA Regional Office—Region 8, Building 40, Denver, Colorado 80225.

12. U.S. Department of Transportation, Federal Highway Administration, Environmental Development Division, Nassif Building—Room 3246, 400 7th Street, SW., Washington, D.C. 20590.

Comments from interested groups and the public on the proposed Action Plan are invited. Comments should be sent to the FHWA Regional Office shown above before April 26, 1974.

Issued on March 22, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.74-7605 Filed 4-2-74;8:45 am]

National Highway Traffic Safety Administration

DEFECTS INVESTIGATIONS AND DETERMINATIONS

Seat and Seat Anchorages—Volkswagen Vehicles

Pursuant to sections 112 and 113 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1401, 1402), the National Highway Traffic Safety Administration determined, on February 28, 1974, that a defect relating to motor vehicle safety does not exist in the seat and seat anchorage of the 1947-70 Volkswagen.

The National Highway Traffic Safety Administration has decided, in accordance with the policy directive regarding defect investigations and determinations published November 4, 1973 (38 FR 31460), to provide interested persons an opportunity to submit their views regarding this matter at a public proceeding to be held on April 17, 1974, at the Department of Transportation Headquarters, 400 Seventh Street, SW., Washington, D.C. The proceeding will be held in room 7202-04 and will begin at 10:00 a.m.

Interested persons are invited to present their views orally, in writing, or both. A transcript of the proceeding will be made and exhibits may be presented. However, cross-examination of witnesses will not be permitted. Persons wishing to make oral presentations are requested to notify Mrs. Nancy Martus, Office of Defects Investigation, National Highway Traffic Safety Administration, Washington, D.C. 20590, Tel. (202) 426-2850, before the close of business (4:15 p.m.) on April 15, 1974.

The agency made its determination that a safety related defect does not exist in the seat and seat anchorage of the 1947-70 Type I Volkswagens based on its investigative file, which contains test reports, interview statements, and other information. The agency's investigative file is available for public inspection in its Technical Reference Division, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590, between 7:45 a.m. and 4:15 p.m.

(Sec. 112, 113, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1401, 1402); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on March 28, 1974.

ROBERT L. CARTER,
Associate Administrator. Motor Vehicle Programs.

[FR Doc.74-7645 Filed 4-2-74;8:45 am]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON LICENSES AND AUTHORIZATIONS

Notice of Meeting

The meeting of the Committee on Licenses and Authorizations of the Administrative Conference of the United States, previously scheduled for March 27, 1974, 39 FR 10643, will be held at 11 a.m. on April 5, 1974, in the Board Room, University Club, 1135 16th Street NW., Washington, D.C.

The Committee will meet to consider a report and proposed recommendation regarding Department of the Interior procedures affecting mining claims on public lands.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least a day in advance. To the extent that time permits the Committee Chairman may allow public presentation or oral statements at the meeting. Any member of the public may file a written statement with the Committee before, during or after the meeting. For further information concerning this committee meeting contact George P. Smith, Suite 500, 2120 L Street NW., Washington, D.C. 20037 or phone 202-254-7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

MARCH 28, 1974.

[FR Doc.74-7580 Filed 4-2-74;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-201]

NUCLEAR FUEL SERVICES, INC. AND NEW YORK STATE ATOMIC AND SPACE DEVELOPMENT AUTHORITY

License No. CSF-1; Applications for Amendments; Conversion to Full-Term Operating License; Time for Submission of Views on Antitrust Matter

Nuclear Fuel Services, Inc., and New York State Atomic and Space Development Authority (the applicants), have filed applications for amendments to License No. CSF-1, including any construction permit required for authorization to perform certain modifications to the West Valley Fuel Reprocessing Plant and authorization to operate the modified Facility for a term of 40 years. Pursuant to the Commission's order of November 13, 1973, published in the FEDERAL REGISTER on November 20, 1973 (38 FR 31985), the applications will be processed in accordance with the requirements of section 103 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations pertaining to applications for a license pursuant to section 103 of the Act.

An application was tendered by Nuclear Fuel Services, Inc., on October 3, 1973. Following a preliminary review for completeness, it was amended and resubmitted on December 13, 1973. The application for the New York State Atomic and Space Development Authority was submitted on December 13, 1973. The applications were docketed on December 17, 1973.

The West Valley Fuel Reprocessing Plant is located in the Western New York Nuclear Service Center in the town of Ashford, near Riceville, Cattaraugus County, New York, about thirty miles south of Buffalo. After modification, the reprocessing facility will have an operating capacity of approximately 750 metric tons of uranium per year.

A Note of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust aspects of the applications presented to the Attorney General for consideration shall submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attn: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, Regulation, on or before May 20, 1974.

The request should be filed in connection with Docket No. 50-201A.

Copies of the applications are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and at the Memorial Library of Little Valley, Main Street, Little Valley, New York.

The applicants have also filed, pursuant to the National Environmental Policy Act of 1969, and the regulations of the Commission in Appendix D to 10 CFR part 50, an environmental report dated December 13, 1973. The report has been made available for public inspection at the aforementioned locations. The report, which discusses environmental considerations related to the proposed modifications and subsequent operation of the modified West Valley Fuel Reprocessing Plant is also being made available at the State Clearinghouse, New York State Office of Planning Services, 488 Broadway, Albany, New York 12207 and at the Southern Tier West Regional Planning Board, 303 Court Street, Little Valley, New York 14755.

After the report has been analyzed by the Commission's Director of Regulations or his designee, a draft environmental statement will be prepared by the Commission's Regulatory staff. Upon preparation of the draft environmental statement, the Commission, will among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland, this 5th day of March 1974.

For the Atomic Energy Commission.

LELAND C. ROUSE,
Chief, Fuel Fabrication and Reprocessing Branch, Directorate of Licensing.

[FR Doc.74-6324 Filed 3-19-74;8:45 am]

[Docket Nos. STN 50-477, STN 50-478]

PUBLIC SERVICE ELECTRIC AND GAS CO.

Receipt of Application for Site Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters

Public Service Electric and Gas Company (the applicant), on behalf of itself and Atlantic City Electric Company and Jersey Central Power & Light Company, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, which was docketed on March 1, 1974, for authorization to construct all necessary site related structures and to install two floating nuclear power plants, each of which incorporates a pressurized water reactor. An application filed by Offshore Power System for a license to manufacture these and other floating nuclear plants is currently under review. The floating nuclear plants will be manufactured in Jacksonville, Florida, and towed to selected sites. The Public Service Electric and Gas Company application was tendered on December 19, 1973. Following a preliminary review for completeness, the application was found acceptable for docketing on February 11, 1974.

The application has been docketed under one of the options of the Commission's standardization policy for nuclear power plants, wherein applications may be filed utilizing reactors manufactured at a location different from where they will eventually be located. Docket Nos. STN 50-477 and STN 50-478 have been assigned to the application and should be referenced in any correspondence relating to the application.

The proposed nuclear facilities, designated by the applicant as the Atlantic Generating Station, Units 1 and 2, are to be moored behind a protective breakwater in the Atlantic Ocean approximately 2.8 statute miles off the southeastern coast of New Jersey. Each unit is to be designed for initial operation at 3411 megawatts thermal and a net electrical output of approximately 1150 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust matters of the application presented to the Attorney General for consideration should submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545. Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before May 20, 1974. The request should be filed in connection with Docket Nos. STN 50-477A and STN 50-478A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and at the Stockton State College Library, Pomona, New Jersey 08240.

The applicant has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, an Environmental Report dated March 1, 1974. The report, which discusses environmental considerations related to the construction and operation of the proposed facilities, is being made available for public inspection at the aforementioned locations and at the Division of State and Regional Planning, Department of Community Affairs, P.O. Box 2768, Trenton, New Jersey 08625.

After the Environmental Report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission's Regulatory staff. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland, this 7th day of March 1974.

For the Atomic Energy Commission.

KARL R. GOLLER,
Chief, Light Water Reactors Group 13, Directorate of Licensing.

[FR Doc.74-6323 Filed 3-19-74;8:45 am]

SAFETY ANALYSIS REPORTS FOR NUCLEAR POWER PLANTS

Notice of Intent to Revise Standard Format and Content

The Atomic Energy Commission's regulations (§ 50.34 of 10 CFR Part 50) require that each application for a construction permit for a nuclear reactor facility include, among other things, a preliminary safety analysis report and that each application for a license to operate such a facility include a final safety analysis report.

To aid applicants in the preparation of safety analysis reports for light-water-cooled reactors, the Commission's Regulatory Staff issued for use, in October 1972, a "Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants." This document identifies the principal information that is needed by the Regulatory staff in evaluating applications for construction permits and operating licenses for light-water-cooled reactors and describes a format for presenting the information. Use of the Standard Format helps to assure that the information provided is complete and assists the Regulatory staff and others in locating information.

In order to provide similar guidance to applicants for construction permits and operating licenses for high-temperature gas-cooled reactors (HTGRs) and liquid-metal-cooled fast-breeder reactors (LMFBRs), separate draft editions of the Standard Format for these respective reactor types were issued for comment in July 1973 and February 1974.

The Regulatory staff plans to revise and reissue for use the three Standard Format documents described above. All interested persons who desire to submit comments or suggestions in connection with the revision of these documents should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff by June 30, 1974.

Dated at Rockville, Md., this 27th day of March 1974.

For the Atomic Energy Commission.

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.74-7636 Filed 4-2-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23287]

AIR FREIGHT FORWARDERS' CHARTERS INVESTIGATION

Notice of Postponment of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding previously scheduled for April 9, 1974, in the Notice To All Parties dated September 24, 1973, is hereby canceled pending Board decision on the motion to dismiss.

Dated at Washington, D.C., March 29, 1974.

[SEAL] RICHARD M. HARTSOCK,
Administrative Law Judge.

[FR Doc.74-7655 Filed 4-2-74;8:45 am]

[Docket No. 22859; Order 74-3-133]

AIRLIFT INTERNATIONAL, INC.

Order of Suspension Regarding Increased Domestic Air Freight Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of March 1974.

By tariff revisions filed March 1, 1974, and marked to become effective March 31, 1974, Airlift International, Inc. (Airlift) proposes to increase its domestic air freight rates and charges by 11.5 percent. The minimum charge would be raised from $10 to $11 per shipment.

In support of its proposal, Airlift contends, inter alia, that these rate increases are necessary to offset recent increases in operating costs resulting from fuel price increases. The carrier states that the average cost of fuel has increased from 18.93 cents a gallon as of December 1, 1973, to 28.89 cents a gallon January 1, 1974, or a 52.6 percent increase. According to Airlift, this has resulted in an 11.5 percent increase in operating costs per available ton-mile during this one-month period.

Even with the proposed increase which is estimated to generate $2.2 million additional annual revenue, Airlift contends that it would still incur an operating loss of $2.97 million for the 12 months ending March 31, 1975. Without the rate increase, this operating loss would amount to $5.18 million. Airlift further contends that such additional losses would seriously jeopardize its ability to continue to provide scheduled all-cargo service, and it must therefore act promptly to pass these fuel cost increases on to shippers on a uniform basis.

The proposed rates and charges come within the scope of the Domestic Air Freight Rate Investigation, Docket 22859, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to suspend the proposal or to permit it to become effective pending investigation.

This represents the second rate increase requested by Airlift this year. Effective January 31, 1974, the Board permitted Airlift to increase its rates and charges by amounts ranging from 10 to 15 percent for all westbound markets under 1,800 miles and eastbound rates for all distances (Order 74-1-155). By this order, the Board suspended Airlift's proposed rate increases to the extent they applied to westbound shipments in markets involving lengths of haul of 1,800 miles and over, and the carrier subsequently canceled these suspended rates.

Airlift has made a showing of increased operating costs. The Board has been aware of sharp fuel price increases in recent months and believes that some adjustments in rates and charges is warranted to help offset these increased costs.

The carrier, however, has made no showing that the rates proposed for the several types of traffic are in line with costs in various markets. The rates indicated in Appendix A appear excessive in relation to costs as indicated by data available to the Board. The remaining portion of the proposal, primarily rates and charges for lengths of haul of less than 1,000 miles (as well as the higher minimum charge), appear sufficiently related to costs that the Board will permit them to become effective.

Upon consideration of all relevant factors, therefore, the Board finds that the proposal, to the extent it applies to rates indicated in Appendix A, should be suspended.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. Pending hearing and decision by the Board, the increased rates, charges, and provisions described in Appendix A hereto[1] are suspended and their use deferred to and including June 28, 1974, unless otherwise ordered by the Board and that no change be made therein during the period of suspension except by order or special permission of the Board; and

2. Copies of this order shall be filed with the tariffs and served upon Airlift International, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-7657 Filed 4-2-74;8:45 am]

[Docket No. 26547; Order 74-3-130]

BRANIFF AIRWAYS, INC.

Order of Investigation and Suspension Regarding Fuel-Related Freight Rate Surcharge

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of March 1974.

By tariff revisions filed March 1 and marked to become effective April 1, 1974, Braniff Airways, Inc. (Braniff) proposes a 6 percent surcharge applicable to bulk minimum charges, general and specific commodity bulk and container rates, and small-package charges between points in the 48 contiguous states. This is Braniff's first fuel-related general increase, and like American Airlines, Inc., it utilizes a rule published in the rules tariff[1] containing a 6 percent surcharge table, and applicable to freight rates and charges published in the various tariffs.[2]

[1] Filed as part of the original document.

[1] Airline Tariff Publishers, Inc., Agent, C.A.B. No. 96.

[2] The proposed surcharge applies in connection with rates and charges published in Airline Tariff Publishers, Inc., Agent, Tariffs C.A.B. Nos. 131, 140 and 169.

In support of its proposal, Braniff asserts, inter alia, that the fuel surcharge is required to alleviate severe revenue imbalances occurring as the direct result of rapid fuel price escalation; industry fuel cost data utilized in defining this escalation recognize only experienced cost increases and do not involve speculative increases beyond January 1974; total domestic average fuel price per gallon in January 1974 was 17.2 cents compared with 11.7 cents in fiscal 1973—a 47 percent increase; fuel cost increases for Braniff are aggravated by the fact that Braniff's primary domestic fueling point, Dallas/Ft. Worth, has experienced fuel cost increases of approximately 60 percent; the Board has permitted fuel-related surcharges for Logair and Quicktrans rates and proposed that such charges also be applicable to international MAC rates; Braniff's management has been implementing fuel conservation methods and suggests that additional economic leverage beyond this point is limited; and the proposed surcharge will not result in excessive windfall profits as it represents a flexible vehicle for instant adjustment as actual experienced fuel prices dictate.

Braniff has made a showing of increased costs based upon industry figures. The Board has been aware of the unprecedented increases in fuel prices in recent months and believes that some adjustment in rates and charges is warranted to help offset these increased costs.

The carrier, however, has made no showing that the resultant increased rates for the several types of traffic are in line with costs in various markets. Based upon data available to the Board, the following increased rates are found to exceed costs:

1. Westbound general commodity container rates and charges on types A and D containers for hauls of 1,000 miles and over;

2. Bulk rates on human remains at all distances; and

3. Bulk general commodity rates, eastbound and westbound, for markets with length of haul 1,800 miles and over.

In view of the foregoing and upon consideration of all relevant factors, the Board finds that Braniff's proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. The Board further concludes that this proposal should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the charges and provisions for account of the carrier "BN" in Rule No. 59 on 7th and 8th Revised Pages 29 and 30 of Airline Tariff Publishers, Inc., Agent's C.A.B. No. 96, and rules, regulations or practices affecting such charges and provisions are, or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful charges and provisions, and rules, regulations, or practices affecting such charges and provisions;

2. Pending hearing and decision by the Board, the charges and provisions for account of the carrier "BN" in Rule No. 59 on 7th and 8th Revised Pages 29 and 30 of Airline Tariff Publishers, Inc., Agent's C.A.B. No. 96 are suspended and their use deferred to and including June 29, 1974, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension, except by order or special permission of the Board;

3. The proceeding herein, designated Docket 26547, be assigned before an Administrative Law Judge of the Board, at a time and place to be designated; and

4. Copies of this order shall be filed with the tariff and served upon Braniff Airways, Inc., which is hereby made a party to Docket 26547.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary*.

[FR Doc.74-7658 Filed 4-2-74;8:45 am]

[Docket No. 22859; Order 74-3-131]

FLYING TIGER LINE INC.

Order of Suspension Regarding Increased Container Minimum Charges

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of March 1974.

By tariff revisions filed March 1, and marked to become effective March 31, 1974, The Flying Tiger Line Inc. (Tiger) proposes to cancel Type A container minimum charges for chargeable weights of less than 3,200 pounds, and increase the minimum charges for Type D containers to reflect increased minimum chargeable weight from 500 to 575 pounds.

Tiger's proposed cancellation of Type A minimum charges for containers below 3,200 pounds would result in increasing minimum charges by an average of 2.3 percent. Minimum charges for Type D containers would be subject to increases of up to 9.8 percent.

In support of its proposal, Tiger contends, inter alia, that the carrier proposes merely to place container minimum charges on the same basis as bulk traffic, i.e., 8.9 pounds per cubic foot; [1] that 83 percent of Type A containers and 94 percent of Type D containers will not be affected by the increase; that, if no improvement occurs in shipper utilization of container space, the proposal will amount to $79,000 in additional revenue annually, or 0.1 percent of total revenue; that, given the fuel shortage confronting the industry and the resulting restrictions on capacity, the rate structure should encourage more efficient packaging in terms of density; and that this will in turn maximize the volume of traffic Tiger can transport with available fuel.

The proposed rates and charges come within the scope of the Domestic Air Freight Rate Investigation, Docket 22859, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to suspend the proposal or to permit it to become effective pending investigation.

The Board is of the opinion that the appropriate cube rule for containers should be consistent with that for bulk traffic. The carrier, however, makes no showing that the increased minimum charges proposed resulting from the higher cube rule are in line with costs at various lengths of haul. Based upon data available to the Board, increased charges resulting from the proposal in certain markets (listed in Appendix A) appear excessive in relation to costs.

In view of the foregoing, and upon consideration of all other relevant factors, the Board finds that the proposal, to the extent that it applies to certain Type D container minimum charges (eastbound and westbound) and cancellation of certain westbound Type A minimum charges as indicated in Appendix A, should be suspended.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof;

It is ordered, That:

1. Pending hearing and decision by the Board, the rates, charges, and provisions described in Appendix A hereto [2] are suspended and their use deferred to and including June 28, 1974, unless otherwise ordered by the Board and that no change be made therein during the period of suspension except by order or special permission of the Board; and

2. Copies of this order shall be filed with the tariff and served upon The Flying Tiger Line Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary*.

[FR Doc.74-7659 Filed 4-2-74;8:45 am]

[Dockets No. 25513, 25661, Agreement C.A.B. 24262; Order 74-3-134]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Increased Fuel Costs

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of March 1974.

By procedural Order 74-3-38 of March 8, 1974, the Board set dates for the receipt of justification, comments and objections pertaining to Agreement C.A.B. 24262 which would further in-

[1] For Type A containers, however, Tiger adjusts the 8.9 pounds by a 20 percent stacking loss; the actual density upon which the proposed minimum chargeable is based is, thus, 7.1 pounds per cubic foot.

[2] Filed as part of the original document.

crease passenger fares by a uniform 7 percent as a consequence of escalating fuel prices. The agreement would provide for increases in all passenger fares on or after April 1, 1974, over the North Atlantic. Within the Western Hemisphere, the increases would apply to all fares (excluding U.S./Canada-Mexico) on or after April 15, 1974. The proposed increases would expire March 31, 1975.

Justification has been submitted by American Airlines, Inc. (American), Braniff International (Braniff), Delta Air Lines (Delta), Eastern Air Lines, Inc. (Eastern), National Airlines, Inc. (National), Pan American World Airways, Inc. (Pan American), and Trans World Airlines, Inc. (TWA).

American provides an income statement for 1973 with and without the proposed increases. American alleges that absent the proposed fuel-related increase which is expected to produce $240,000 in additional revenue, its overall revenues in the Caribbean would be expected to increase by $722,000 against total fuel cost increases of $1,624,000, based on increases in fuel prices from 14.99 cents to 30.39 cents per gallon.

Braniff, in its projection for 1974, indicates that the proposed 7 percent fuel-related fare increase would net an additional $4.1 million, thus bringing all revenue increases related to fuel increases to date to $9.6 million for calendar year 1974. Even with approval of the current proposal, Braniff alleges that it will be able to offset only approximately 61 percent of its identified fuel cost escalation. This deficiency will result in a net income reduction of 16.3 percent over previously anticipated levels.

Delta supports the proposed increases as justified because of fuel and other cost increases, but alleges that further increases in the near future should be considered with caution because of the possibility of adverse traffic response. Since its last justification (December 1973) pertaining to fuel-related increases, Delta states that fuel costs have increased from 27.2 cents to 42.3 cents per gallon at Freeport, Bahamas and from 16.1 cents to 45.6 cents at Maracaibo, Venezuela.

Eastern projects only a modest revenue gain from the proposed 7 percent fuel-related increase, $931,000 on total revenues of $45.2 million (excluding Mexico). Eastern alleges that this estimate reflects a traffic-elasticity factor which brings about a net increase of 2.06 percent rather than the 7 percent provided in the agreement. Fuel costs, on the other hand, are estimated to be 43.6 cents per gallon at the end of 1974 and to represent a cost increase in excess of $10 million. Eastern therefore suggests that, in the year ended September 30, 1973, its operations in mainland-IATA markets, adjusted for fare increases, traffic expense reductions, traffic declines and fuel cost increases, would have resulted in an operating loss of $4.9 million and a negative return on investment of 4 percent. Its alleged actual reported results for the period reflect the operating profit of $1.9 million, and a 4.4 percent rate of return on investment.

Pan American provides data regarding its system fuel costs. For the third quarter of 1973 the price of fuel per gallon was 14.51 cents; for the fourth quarter of 1973, 17.52 cents; and by the end of the first quarter of 1974, the cost is anticipated to increase to 27.37 cents per gallon. Based on the latest cost information provided by its fuel suppliers, Pan American anticipates that the cost per gallon will average 32.02 cents for the year 1974. Pan American estimates that its Latin American passenger revenues would be increased by $10.1–$10.5 million as a consequence of the instant agreement. Including contractual cost escalations only, the carrier projects that, absent the proposed increases, its return on investment in Traffic Conference 1 (excluding U.S./Mexico operation) would approximate 8.1 percent in 1974. This rate of return would be reduced to 4.2 percent if other budgeted cost increases were included. With the proposed increase, Pan American projects corresponding rates of return of 10.0 percent and 6.1 percent, respectively. With respect to its North Atlantic operations, Pan American projects increased costs resulting directly from fuel price escalations of $66.2 million over its experienced cost for the year ending September 30, 1973. This projection is based on anticipated fuel costs at the projected level for the quarter ending December 31, 1974. Pan American estimates a revenue improvement of 4.6 percent, or $18.5 million.

TWA estimates an average fuel cost of 45 cents per gallon for 1974 and projects an expenditure of $166.5 million for fuel—an increase of more than $110 million from the level incurred in 1973. TWA points out that despite a significant reduction in the level of its operations from that originally planned for 1974 and a 22 percent increase in passenger yield (the combined effect of fare increases since January 1974), it anticipates unprofitable transatlantic operations for the first time since 1961. The carrier estimates that additiional fuel-related surcharges in excess of 15 percent would be required on April 1, 1974 to offset its projected pre-tax loss of $54.3 million. These added charges, however, would produce a break-even situation, the carrier alleges, only if there were no loss of traffic.

National submits data which indicate its average cost of bonded fuel increased from 8.43 cents per gallon in October 1973 to 15.89 cents in February 1974 and, based on its contractual commitments plus information provided by its London supplier, will rise to 19.13 cents in July 1974. As a consequence, National estimates that its fuel cost for the period April 1974 through March 1975 will increase by $669,000 over the prices in effect in February 1974. Passenger revenues, assuming no elasticity, are anticipated to increase by $1.6 million, producing a very favorable return on investment of 21.38 percent.

Although the Board's Order 74-3-38 called for justification in support of the need for a 7 percent fare increase as a result of increased fuel costs, many carriers have gone far beyond the instant agreement to portray the disastrous consequences of fuel price escalations. For example, several carriers (among them Pan American, TWA and Eastern) use projected rather than actual fuel prices. American and Eastern do not furnish traffic and revenue data for 1974, but rather superimpose the new fuel cost rates on 1973 levels of operation; Pan American includes cost projections which are not fuel related; and all with the exception of Delta and National have adjusted traffic downward to take into account elasticity considerations. By maintaining traffic at status quo, National shows an increase in its anticipated rate of return on investment. However, despite the many highly judgmental factors contained in the carriers' justifications, the proposed increase of seven percent appears to be warranted and related to increased fuel costs, and will therefore be approved.

As indicated, some carriers superimposed anticipated or present fuel prices on 1973 levels of operation. As such, fuel costs are overstated to the extent of any service cut-backs in 1974 stemming from reductions in fuel availability. Taking this factor into consideration, however, it would appear that revenues even asuming no elasticity, would not be increased beyond present fuel costs. By the same token, it is obvious that the return on investment of the U.S.-flag carriers as a group, which in 1973 amounted to less than six percent in transatlantic services and less than three percent in the Western Hemisphere (excluding Mexico), will not be excessive in 1974.

Eastern alleges that its Caribbean operations, assuming no elasticity, would experience revenue increases of $3.2 million, while fuel costs would increase by $10.4 million. Eastern, however, makes this projection on anticipated fuel costs in December 1974 of 43.60 cents per gallon, whereas its actual costs in February 1974 was 35.53 cents per gallon. Nevertheless, even applying this lesser actual cost, the carrier's anticipated revenue gain would not offset its increase in fuel cost.

While both Pan American and TWA provide forecast data which reflect operations proposed for 1974, Pan American uses fuel costs anticipated in the last quarter of 1974. TWA on the other hand employs a 45-cents-per-gallon estimate, compared with actual cost of 43.41 cents in February 1974. A recomputation of TWA's submission using February fuel cost does not materially change the very large deficit it projects. A recomputation of Pan American's North Atlantic justification to reflect the increase in fuel prices from November 1973 through February 1974 indicates a cost increase of approximately $31.3 million. Absent any change in traffic, the proposed seven percent fare increase would increase passenger revenues by $28 million.

Some of the carriers filing justifications have assumed that no traffic will be lost as a result of the fare increases proposed herein, whereas others (notably Eastern) have allowed for loss of traffic through demand elasticity. Actually, we have little doubt that these fare increases will result in loss of traffic as against what would have been experienced in the absence of the increases, other factors being equal.[1] This potential loss of traffic is a factor which the carriers must (and do) take into account in seeking fare increases, and must also take into account in planning the volume of their operations under the increased fares. Nevertheless, as we pointed out in the DPFI, and again earlier this month,[2] the carriers' revenues in the long run must cover their costs plus an adequate return on investment, and when their unit costs increase beyond any possibility of being offset through operating efficiencies (as is clearly the case with the current drastic fuel cost increases), they cannot be denied needed fare increases simply because traffic will be adversely affected.

Upon consideration of the carrier justifications, the Board concludes that an additional seven percent increase in North Atlantic fares and fares within the Western Hemisphere (excluding U.S. /Canada-Mexico) appears warranted and justified by the unprecedented increases in the price of fuel. The increase does not appear excessive and should not result in increased profits for the industry as a whole.

The Board, acting pursuant to sections 102, 204(a), 404(b), 412 and 1002 of the Act, finds that Agreement C.A.B. 24262 is not adverse to the public interest or in violation of the Act:

Accordingly, it is ordered, That:

1. Agreement C.A.B. 24262 be and hereby is approved.

2. The carriers are hereby authorized to file tariffs implementing the approved agreement on not less than one day's notice for effectiveness not earlier than April 1, 1974 in the case of North Atlantic fares and not earlier than April 15, 1974 in the case of Western Hemisphere fares. The authority granted in this paragraph expires with April 30, 1974.

3. Tariffs implementing the agreement shall be marked to expire no later than March 31, 1975.

This order will be published in the FEDERAL REGISTER.

[1] Traffic will of course be affected by numerous factors other than the level of international fares, including inter alia the rise or fall of disposable personal incomes in this country, relative degrees of price inflation in this country and abroad, fluctuation in the value of the U.S. dollar vis-a-vis foreign currencies, the state of consumer confidence, and so forth. In view of the marked instability of all of these factors at the present time, it would be hazardous to attempt any kind of exact prediction of the volume of international air traffic in the coming year.

[2] See Order 74-3-43, March 8, 1974.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary*.

[FR Doc.74-7653 Filed 4-2-74;8:45 am]

[Docket No. 24739]

SCHENKER & CO. GmbH (GERMANY) AND SCHENKERS INTERNATIONAL FORWARDERS, INC.

Notice of Prehearing Conference Regarding Foreign Indirect Air Carrier Permit

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on April 22, 1974, at 10 a.m. (local time), in Room 503, Universal Building, 1825 Connecticut Avenue, NW., before the undersigned administrative law judge.

Statement of Issues, stipulations and requests for evidence should be exchanged April 15.

Dated at Washington, D.C., March 28, 1974.

[SEAL] RICHARD M. HARTSOCK, *Administrative Law Judge*.

[FR Doc.74-7656 Filed 4-2-74;8:45 am]

[Docket No. 26527; Order 74-3-96]

VARIOUS CARRIERS

Order of Investigation and Suspension Regarding Fuel-Related Fare Increases; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22nd day of March 1974.

Ordering paragraph 3 of Board Order 74-3-96 should be amended to delete Dockets 26363 and 26461, and add Dockets 26365, 26467, and 26468.

Dated: March 28, 1974.

[SEAL] EDWIN Z. HOLLAND, *Secretary*.

[FR Doc.74-7654 Filed 4-2-74;8:45 am]

CIVIL RIGHTS COMMISSION

ILLINOIS STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Illinois State Advisory Committee (SAC) to this Commission will convene at 6:00 p.m. on April 4, 1974, at the Marion Federal Prison, Marion, Illinois 62959.

Closed or executive SAC sessions may be held at such time and place as deemed necessary to discuss matters which may tend to defame, degrade, or incriminate individuals. Such sessions will not be open to the public.

Persons wishing to attend this meeting should contact the Committee Chairman or the Midwestern Regional Office of the Commission, Room 1428, 219 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting shall be to collect information concerning legal developments constituting a denial of the equal protection of the laws under the Constitution because of race, color, religion, sex, national origin, or in the administration of justice which affect persons residing in the State of Illinois with special emphasis on the conditions in Illinois penal institutions as they relate to the civil rights of inmates; to appraise denial of equal protection of the laws under the Constitution because of race, color, religion, sex, national origin, or in the administration of justice as these pertain to Illinois penal institutions as they relate to the civil rights of inmates; and to disseminate information with respect to denials of the equal protection of the laws because of race, color, religion, sex, national origin, or in the administration of justice with respect to Illinois penal institutions; and to related areas.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., March 29, 1974.

ISAIAH T. CRESWELL, Jr., *Advisory Committee Management Officer*.

[FR Doc.74-7686 Filed 4-2-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

IMPACT STATEMENTS AND OTHER ACTIONS IMPACTING THE ENVIRONMENT

Availability of Comments

MARCH 25, 1974.

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of February 1, 1974 and February 28, 1974.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix V.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this reviewing period. The listing will include the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix V.

Appendix IV contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. The listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in Appendix V.

Appendix V contains a listing of the names and addresses of the sources for copies of EPA comments listed in Appendices I, III, and IV.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Inquiries Branch, Office of Public Affairs, Environmental Protection Agency, Washington, D.C. 20460. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency or from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

Dated: March 19, 1974.

SHELDON MEYERS,
Director,
Office of Federal Activities.

APPENDIX I.—*Draft environmental impact statements for which comments were issued between Feb. 1, 1974, and Feb. 28, 1974*

Identifying No.	Title	General nature of comments	Source for copies of comments
Department of Agriculture:			
D-AFS-60088-MN	Superior National Forest Land Exchange, Minn	3	F
D-AFS-60090-MT	Montana multiple-use plan—Gold Creek planning unit	LO-2	I
D-AFS-60092-MT	Lower Wolf multiple-use plan, Mont	LO-2	I
D-AFS-65050-MT	Camp Tolan planning unit, Mont	3	I
D-AFS-65056-AK	Cholmondeley land management plan, Alaska	LO-1	K
D-AFS-65057-WA	Land use plan for the Deadwood planning unit, Boise National Forest, Wash.	LO-2	K
D-AFS-65058-NM	Proposed Sandia Mountain land-use plan, Cibola National Forest, N. Mex.	ER-2	G
D-AFS-65059-CO	Management proposals for Uncompahgre and Wilson Mountains primitive areas and contiguous lands, Colorado.	3	
D-AFS-65060-ID	West Fork of Race Creek timber sale, Idaho	LO-1	K
D-AFS-65063-CA	Stanislaus National Forest timber management plan, California.	LO-2	J
D-AFS-82076-OR	Deschutes, Fremont, Ochoch, and Winema National Forests vegetative management using selective herbicides for period Jan. 1, 1974, through June 30, 1975, Oregon.	LO-2	K
D-AFS-82081-OR	Vegetation management with herbicides on the Umatilla, Malheur, and Wallowa-Whitman National Forests for period Jan. 1,1 974, through June 30, 1975.	LO-2	K
D-AFS-82082-ME	Spruce budworm suppression 1974 program, Maine	LO-1	B
D-AFS-99069-AK	Ketchikan pulp Co. timber sale, 1974-79, Alaska	LO-1	I
D-SCS-36340-TX	San Felipe Creek watershed, Val Verde County, Tex	LO-2	G
D-SCS-36352-WV	Lost River Hardy County flood control, West Virginia	3	D
D-SCS-36354-AR	Lee-Phillips watershed project, Lee and Phillips counties, Ark.	LO-2	G
Corps of Engineers:			
D-COE-05437-WA	Zintel Dam and channel, Wash	LO-2	K
D-COE-30071-NY	Beach erosion project, East Rockaway Inlet, N.Y	LO-1	C
D-COE-30072-LA	Revised EIS—Grand Isle and vicinity, Louisiana	LO-2	G
D-COE-32473-WA	Everett Harbor and Snohomish River Navigation Project, Wash.	ER-2	K
D-COE-32476-OO	Gallipolis Lock and Dam replacement, Ohio River, Ohio and W. Va.	LO-1	D
D-COE-34097-OH	Caesar Creek Lake project	ER-2	F
D-COE-34098-AL	Millers Ferry Lock and dam, Alabama River, Ala	ER-2	E
D-COE-34100-OH	Revised draft EIS, East Fork Lake project, Ohio	ER-2	F
D-COE-35107-NC	Carteret County, maintenance of Core Sound channel, Davis, N.C.	LO-1	E
D-COE-35111-VA	Maintenance dredging, Starlings Creek, Va	LO-2	D
D-COE-36339-NY	Revised EIS, flood control project, Ardsley, N.Y	3	C
D-COE-39075-KS	Onaga Dam and Lake project, Vermillion Creek, Kans	ER-2	H
D-COE-39077-MI	Great Lakes connecting channels, Widening Bends, Mich	ER-2	F
D-COE-39084-KS	Operation and maintenance of Perry Lake, Kans	ER-2	H
D-COE-60094-WA	Wilma North Clarkston, industrial sites, Lewiston, Wash.	LO-1	K
D-COE-99071-CA	Hahn shopping center permit, Marin County, Calif	ER-2	J
Federal Power Commission:			
D-FPC-03045-RI	Algonquin LNG, Inc., Algonquin Gas Transmission, Rhode Island.	ER-2	B
General Services Administration:			
D-GSA-81153-OH	Federal office building and parking facility, Columbus, Ohio.	3	F
D-GSA-81154-MI	Federal office building, Ann Arbor, Mich	LO-1	F
D-GSA-81156-NH	Federal office building, Manchester, N.H	LO-1	B
Department of Health, Education, and Welfare:			
D-HEW-80012-UT	St. Benedict's Hospital, Ogden, Utah	LO-1	I
Department of the Interior:			
D-IBR-08015-SD	Watertown-Sioux City Moville 345 KV transmission line, S. Dak.	LO-1	I
D-IBR-39082-CA	El Dorado main 2, Central Valley project, Calif	3	J
D-IGS-02051-FL	Proposed oil and gas operation in Ocala National Forest, Fla.	LO-2	E
D-NPS-61177-WA	Mount Rainier National Park, Wash	LO-1	K

APPENDIX I.—*Draft environmental impact statements for which comments were issued between Feb. 1, 1974, and Feb. 28, 1974*—Contin ued

Identifying No.	Title	General nature of comments	Source for copies of comments
D-SFW-61207-MT	Medicine Lake Wilderness Area, Roosevelt and Sheridan Counties, Mont.	LO-1	I
D-SFW-64032-KY	Wolf Creek National Fish Hatchery, Russel County, Ky.	LO-2	E
Department of Transportation:			
D-CGD-32474-VA	Proposed regulated navigation area for the entrance to Chesapeake Bay, Va.	LO-1	D
D-CGD-80013-MA	Relocation of search and rescue station, Provincetown, Mass.	ER-2	B
D-FAA-51816-TN	Dyersburg Municipal Airport, Tenn	LO-2	E
D-FAA-51819-TX	Munday Municipal Airport, Tex	LO-1	G
D-FAA-51821-TT	Truk District Airport, Moen Island, East Caroline Islands, Pacific-Asia region.	ER-2	J
D-FHW-42012-IA	F-592, Marion-Mahaska Counties, Iowa	3	H
D-FHW-42088-MN	Diamond interchange village of Edina, Hennepin County, Minn.	LO-2	F
D-FHW-42096-NM	Gibson Boulevard from Yale to Carlisle Boulevards in Albuquerque, N. Mex.	ER-2	G
D-FHW-42100-SC	Marlboro County, S.C.—38 to U.S.-15/401 by-pass, South Carolina.	LO-2	E
D-FHW-42103-ID	Thornton to Twin Groves, U.S. 20-191, Idaho	LO-1	K
D-FHW-42104-ID	Wolf Lodge Interchange to Rose Lake Junction I-90-1(55)26, Idaho.	LO-1	K
D-FHW-42106-TN	Knox County, I-640 from Paper Mill Road interchange with I-40 near Middlebrook Pike to a point west of Gap road in Knoxville, Tenn.	ER-2	E
D-FHW-42107-ID	I-80 Gayway Junction, Fruitland Section, Payette County, Idaho.	LO-1	K
D-FHW-42108-AL	Morgan County, project S-450-I, Alabama	LO-2	E
D-FHW-42110-WI	Proposed bridge and approaches, Chippewa Falls, Wis	LO-1	F
D-FHW-42111-TX	Interstate highway 35 and U.S. 290 in North Austin, Tex.	LO-2	G
D-FHW-42122-HI	Honoapiilani Highway Honokowai to Honokahoua, Maui, Hawaii.	LO-1	J
D-FHW-42130-TX	Tarrant County, I-820 from I-30 west of Fort Worth, Tex.	3	G

APPENDIX II

DEFINITION OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

ENVIRONMENTAL IMPACT OF THE ACTION

LO—Lack of Objection. EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations. EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory. EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

ADEQUACY OF THE IMPACT STATEMENT

Category 1—Adequate. The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information. EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate. EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

APPENDIX III.—*Final environmental impact statements for which comments were issued between Feb. 1, 1974, and Feb. 28, 1974*

Identifying No.	Title	General nature of comments	Source for copies of comments
Atomic energy commission:			
F-AEC-06099-NY	R. E. Ginna Nuclear Power plant, unit 1, New York.	EPA generally agreed with the proposed project yet found that there were water-related problems associated with the operation of the Ginna power plant. EPA stated that these would be dealt with through EPA's national pollutant discharge elimination system.	C
Department of Agriculture:			
F-SCS-36286-KY	North Fork Nolin River Watershed, Ky.	EPA generally agreed with the project as proposed. The final statement adequately accommodated EPA's comments on the draft statement.	E
Corps of engineers:			
F-COE-32160-NY	Maintenance of Tarrytown Harbor, N.Y.	EPA generally agreed with the project as proposed. The final statement adequately accommodated EPA's comments on the draft statement.	C
F-COE-32474-NY	Proposed project, New Rochelle and Echo Bay Harbors, N.Y.	EPA generally agreed with the project as proposed. The final statement adequately accommodated EPA's comments on the draft statement.	C

APPENDIX IV.—*Regulations, legislation, and other Federal agency actions for which comments were issued between Feb. 1, 1974, and Feb. 28, 1974*

Identifying number	Title	General nature of comments	Source for copies of comments
F-COE-35114-MI	Alternate disposal area for Grand Haven Harbor, Ottawa, Mich.	EPA found that while the final EIS responded to EPA's comments on the draft EIS, its comments regarding water quality standards were not adequately addressed. EPA also commented that EPA would not be monitoring effluent as the final EIS said it would.	F
Federal Power Commission:			
F-FPC-05052-AL	Crooked Creek Project No. 2628, Ala.	EPA generally agreed with the proposed project, but did feel that additional clarification was needed regarding aeration and the resultant oxygen content in the waters below the proposed dam. The rest of the final statement was deemed adequate.	E
Department of Transportation:			
F-FHW-41687-TN	Hawkins County, Tenn. Federal aid project F-001-9, State Route 1.	EPA generally agreed with the project as proposed. The final statement adequately accommodated EPA's comments on the draft statement.	E
F-FHW-41736-CA	Highway improvements on routes 106 and 30, San Bernardino, Calif.	EPA generally agreed with the project as proposed. The final statement adequately accommodated EPA's comments on the draft statement.	J
F-FHW-41953-KY	Murray-Benton Road, U.S. 641, Calloway and Marshall Counties, Ky.	EPA found the final EIS adequate, but did, however, recommend that additional noise abatement procedures be developed.	E
Atomic energy Commission:			
R-AEC-86031-00	10 CFR parts 2, 30, 40, 50, 51, 70—environmental protection—licensing and regulatory policy and procedures. 10 CFR part 11—Environmental impact statements—policy and procedures.	In general, EPA found the proposed AEC rules to be comprehensive and well developed. However, EPA suggested the rules be more specific on EPA's unique responsibilities under section 309 of the Clean Air Act, as amended; recommended that the AEC prepare impact statements prior to issuance of partial power licenses; suggested the rules provide for a reasonable waiting period after issuance of a negative declaration before taking administrative action; and requested the rules be clarified as to whether there would be a formal review of the applicant's environmental reports. A number of other points were also raised.	A
Department of Agriculture:			
R-DOA-99066-00	9 CFR parts 108, 114, 116—viruses, serums, toxins, and analogous products—sanitation, production and recordkeeping requirements for licensed establishments.	EPA finds the subject regulations generally adequate, however, suggests modification of several sections in order to strengthen the regulations.	A
R-AFS-67004-00	36 CFR parts 251, 252, 253—mineral resources on national forests—use under U.S. mining laws.	EPA reviewed the subject regulations and finds them generally adequate. We commend the requirements for review of mining operating plans under the National Environmental Policy Act and suggested modifications of several sections of the regulations.	A
R-REA-99070-00	7 CFR part 1701—rural electrification—guaranteed loan program.	EPA viewed the proposed regulations as generally adequate, however, a revision in one of the sections was suggested in an effort to improve the regulations.	A
Department of Commerce:			
R-DOC-86045-00	Notices—statements on proposed Federal actions affecting the environment—policies and procedures.	EPA found the policies and procedures generally adequate, however, we suggested modifications of several sections to aid in strengthening the regulations.	A
Federal Power Commission:			
R-FPC-99058-00	18 CFR part 175—certificates of public convenience and necessity—proposed procedure for filing of applications.	In general, EPA has no objections to the proposed rules based on our areas of jurisdiction. However, EPA requested clarification of the process of finding abbreviated applications, in particular as to whether such filings entail submission of Exhibits F, F-I, F-II, F-III, and F-IV. In that regard, it was EPA's opinion that a full Exhibit F should be submitted because the construction or relocation of natural gas sales or transportation facilities may have a significant effect on the environment.	A
National Aeronautics and Space Administration:			
R-NAS-86035-00	14 CFR part 1204—environmental quality and control—proposed general procedures.	Overall, EPA found the proposed NASA rules to be comprehensive and well developed. However, EPA suggested that the rules specifically mention the 45-day review period for draft environmental impact statements, reflect EPA's unique review responsibilities under section 309 of the Clean Air Act, as amended, and indicate that a formal document be issued describing each negative declaration and a reasonable period will be allowed before further administrative action is taken.	A

APPENDIX IV.—*Regulations, legislation, and other Federal agency actions for which comments were issued between Feb. 1, 1974, and Feb. 28, 1974*

Identifying number	Title	General nature of comments	Source for copies of comments
National Science Foundation: R-NSF-86034-00	45 CFR part 650—environmental impact statements—policy and procedures.	In general, EPA found the proposed NSF rules to be well developed. However, it was recommended that, after a negative declaration by NSF, a reasonable period be allowed before further administrative action is taken. In addition, EPA suggested that the criterion, for determining whether there is sufficient Federal involvement in a program to cause it to fall under NEPA, should be expanded to include the degree of Federal control in addition to the amount of Federal investment. Further, EPA requested that the rules be modified to exclude final environmental impact statements and proposed NSF regulations from an implied 45-day review period.	A
Department of Transportation: R-DOT-99067-00	49 CFR parts 171, 173, 174, 175, 177, 178—transportation of hazardous materials—miscellaneous proposals relating to radioactive materials.	EPA believes that the proposed revisions would offer additional protection to the public health and welfare. EPA also raised some technical considerations concerning plutonium heat generation rates and the adequacy of plutonium packaging requirements.	A

APPENDIX V

SOURCE FOR COPIES OF EPA COMMENTS

A. Director, Office of Public Affairs, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460
B. Director of Public Affairs, Region I, Room 2303, John F. Kennedy Federal Building, Boston, Massachusetts 02203
C. Director of Public Affairs, Region II, Environmental Protection Agency, Room 847, 26 Federal Plaza, New York, New York 10007
D. Director of Public Affairs, Region III, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106
E. Director of Public Affairs, Region IV, Environmental Protection Agency, Suite 300, 1421 Peachtree Street, N.E., Atlanta, Georgia 30309
F. Director of Public Affairs, Region V, Environmental Protection Agency, 1 N. Wacker Drive, Chicago, Illinois 60606
G. Director of Public Affairs, Region VI, Environmental Protection Agency, 1600 Patterson Street, Dallas, Texas 75201
H. Director of Public Affairs, Region VII, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108
I. Director of Public Affairs, Region VIII, Environmental Protection Agency, Lincoln Tower, Room 916, 1860 Lincoln Street, Denver, Colorado 80203
J. Director of Public Affairs, Region IX, Environmental Protection Agency, 100 California Street, San Francisco, California 94111
K. Director of Public Affairs, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

[FR Doc. 74-7403 Filed 4-2-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 693]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

MARCH 25, 1974.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to §§ 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the Rules).

APPLICATION ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21072-C2-P-74, Southern Ohio Radio Telephone and Paging (KSV960). RESUBMITTED a C.P. to add points of communications and transmitter operating on 454.30 MHz located at 4527 Aicholtz Road, Mount Carmel, Ohio.

21073-C2-P-74, Caprock Radio Dispatch (KQZ738). C.P. to change antenna system and location operating on 152.24 MHz to be located 1200 feet South of Summit Street and 500 feet West of Aspen Street, S.W., Roswell, New Mexico.

21074-C2-P-74, Tri-Cities Answering Service, Inc. (NEW). C.P. for a new 1-way station to operate on 158.70 MHz to be located at 318 North Keystone Avenue, Sayre, Pennsylvania.

21075-C2-P-74, Telephone Answering Service of Fayetteville, Inc. (KIE363). C.P. to change antenna location and replace transmitter operating on 152.03 MHz to be located at 727 McGilvary Street, Fayetteville, North Carolina.

21076-C2-P-74, Southern Message Service, Inc. (NEW). C.P. for a new 1-way station to operate on 158.70 MHz to be located 700 Block Crockett Street between Cotton and Louisiana Streets, Shreveport, Louisiana.

21077-C2-P-74, Athens Business Communications (NEW). C.P. for a new 2-way station to operate on 152.21 MHz to be located 0.65 mile SE of Athens, Ohio.

21078-C2-P-74, Athens Business Communications (NEW). C.P. for a new 1-way station to operate on 152.24 MHz to be located 0.65 miles SE of Athens, Ohio.

21079-C2-P-(4)-74, Radio Phone Communications, Inc. (NEW). C.P. for a new 2-way station to operate on 454.050, 454.100,

454.150 and 454.200 MHz to be located near NW Intersection of Va. #190 and Centerville Turnpike, Virginia Beach, Virginia.

21080–C2–P–(2)–74, The Pacific Telephone and Telegraph Company (KMD999). C.P. to change antenna system and replace transmitter operating on 152.54 and 152.78 MHz located at Boucher Hill, near Palomar Mountain, California.

21082–C2–P–74, New England Telephone and Telegraph Company (KCC487). C.P. to change antenna system, antenna location and relocate transmitter operating on 35.66 MHz at Loc. #6: 41 Belvidere Street, New England Tel. & Tel. Co., Central Office Building, Boston, Massachusetts.

21083–C2–P–(3)–74, The Mountain States Telephone and Telegraph Company (KOK 347). C.P. to change antenna system and replace transmitter operating on 152.63 and 152.69 MHz and to relocate facilities operating on 152.81 MHz from Station (KOK414) located 9.5 miles SE of Burley, Idaho to all be located 4.5 miles East of Jerome, Idaho; also add new auxiliary test facilities to operate on 157.89, 157.95 and 158.07 MHz to be located at 121 3rd Avenue East, Twin Falls, Idaho.

21084–C2–P–(3)–74, South Central Bell Telephone Company (KIQ999). C.P. to change antenna system, replace transmitters and change frequency from 35.34 MHz to 152.84 MHz at all three locations: Loc. #1: 100 North Franklin Street, Mobile, Alabama; Loc. #2: Moffatt Road and Shelton Beach Extension, Mobile, Alabama; and Loc. #3: Cottage Hills Area between 713 & 721 Demetropolis Road, Mobile, Alabama.

21085–C2–P–(3)–74, Lehigh Valley Mobile Telephone Company (KTS217). C.P. to add antenna location #2 to operate on 454.250 MHz base, and add repeater facilities to operate on 75.88 MHz at Loc. #2: Elbow Road Drive, Montana, New Jersey; and add control facilities to operate on 72.26 MHz at Loc. #1: South Mountain, Allentown, Pennsylvania.

21086–C2–P–(2)–74, Lehigh Valley Mobile Telephone Company (NEW). C.P. for a new 2-way station to operate on 454.175 and 454.350 MHz to be located at Elbow Road Drive, Montana, New Jersey.

21087–C2–P–(3)–74, Arrowhead Business Radio, Inc. (KEK301). C.P. to change antenna location and replace transmitter operating on 152.15 MHz base facilities and replace transmitter and change frequency from 75.74 MHz to 459.025 MHz on repeater facilities to be located 2200 feet East of US Highway 53, Virginia, Midway section, Minnesota designated as Loc. #1; and change antenna location, replace transmitter and change frequency from 72.30 MHz control to 454.025 MHz control to be located at 1306 Windsor Avenue, Duluth, Minnesota.

21088–C2–P–74, Caprock Radio Dispatch (KKJ449). C.P. for additional facilities to operate on 152.15 MHz at a new site designated as Loc. #3: 1200 feet south of Summit and 500 feet west of Aspen Street, N.W., Roswell, New Mexico.

21089–C2–AL–74, Telephone Answering Service of Taunton. Consent to Assignment of License from Telephone Answering Service of Taunton ASSIGNOR to Telephone Answering Service of Taunton, Inc., ASSIGNEE. Station KTS252, Taunton, Massachusetts.

21090–C2–TC–74, Communications, Inc. Consent to Transfer of Control from Estate of Raymond E. Moore, TRANSFEROR to Mary B. Moore, TRANSFEREE. Station: KAA280, Denver, Colorado.

21091–C2–P–74, R. Harvey Squires d/b as Rockfish Radio Telephone Service (NEW). C.P. for a new 2-way station to operate on 152.06 MHz to be located at 806 North Norwood Street, Wallace, North Carolina.

21092–C2–P–74, Protectowire Pacific Company, Inc. (NEW). C.P. for a new 1-way station to operate on 158.70 MHz to be located at Ranier Hill, 4.4 miles South of Longview, Washington, Ranier Hill, Oregon.

21093–C2–P–74, Jackson County Broadcasting Service, Inc. d/b as Trav-Com Mobile Phones (NEW). C.P. for a new 2-way station to operate on 454.250 MHz to be located at Bellavista and Mountainbrook Drives, Scottsboro, Alabama.

21094–C2–P–74, General Communications Service, Inc. (NEW). C.P. for a new 2-way station to operate on 152.15 MHz to be located at 365 Short Street, Sierra Vista, Arizona.

21095–C2–P–74, General Communications Service, Inc. (NEW). C.P. for a new 1-way station to operate on 152.24 MHz to be located at 365 Short Street, Sierra Vista, Arizona.

21096–C2–P–74, General Communications Service, Inc. (NEW). C.P. for a new 1-way station to operate on 152.24 MHz to be located Atop Hill, 0.4 mile East of Port of Entry, Nogales, Arizona.

21097–C2–P–74, General Communications Service, Inc. (NEW). C.P. for a new 2-way station to operate on 152.18 MHz to be located Atop Hill, 0.4 mile East of Port of Entry, Nogales, Arizona.

Renewal of Licenses expiring April 1, 1974. Term: April 1, 1974 to April 1, 1979.

ALABAMA

Licensee	*Call Sign*
Airsignal International, Inc	KIF650
Do	KRS687
Mobile Dispatch Service	KIF658

ALASKA

Communications Equipment & Service Co.	KQZ768
Do	KWA632

ARIZONA

General Communications Service, Inc.	KOA265
Do	KOA611
Do	KOE254
Do	KOE257
Do	KOF328
Do	KOH280
Do	KUO575

CALIFORNIA

Airsignal of California, Inc	KJU808
Do	KLF648
Do	KMA219
Do	KMA261
Do	KMA267
Do	KMA742
Do	KMM703
Do	KMM704
Do	KMM705
Do	KMM706
Do	KQZ798
Do	KRM981
Do	KRM982
Cal-Autofone	KMA252
Do	KMD684
Delta Mobile Radio Service	KMJ221
Delta Valley Radiotelephone Co., Inc.	KRM983
Orange County Radiotelephone Service, Inc.	KMB304
Peninsula Radio Secretarial Service, Inc.	KMA608
Do	KQZ718
Radio Electronics Products Corporation.	KMD687
Do	KTS214
Radio Page Communications, Inc.	KME438
Salinas Valley Radio Telephone Company.	KMA837

COLORADO

Mobile Radio Telephone Service	KAA276
Do	KAQ606
Ute Communications	KAF645

DELAWARE

Airsignal International, Inc	KGC591

FLORIDA

Airsignal International, Inc	KFL895
Do	KLF651
Do	KIJ358
Do	KIQ511
All-Florida Communications Company.	KIN643
All-Florida Communications Anserfone of St. Lucie County, Inc.	KIN645, KUC847

GEORGIA

Airsignal International, Inc	KIE953
James L. Hope	KIY525
South Georgia Communications, Inc.	KIY503
Do	KIY765
Do	KSV909

IDAHO

Central Mobil & Paging Service	KTS226

ILLINOIS

Joliet Telephone Answering Service, Inc.	KSD313

INDIANA

Calumet Radio Dispatch	KLF553
Do	KSB589
Harold's Radio Service	KUO648
Lafayette Radiotelephone Company.	KSJ767

IOWA

Council Bluffs Mobilephone	KTS234
Electronic Engineering Company.	KAF242
Do	KLF554
Do	KRS643

KANSAS

General Communication Systems, Inc.	KAD027
Do	KAF643
Do	KAI926
Do	KAQ629
Do	KLF559
Do	KLF625
Do	KQZ793
Do	KQZ794

KENTUCKY

Mayfield Answering Service	KRS685
Radio Telephone Service	KFQ936
Do	KIY761
Do	KJU819
Do	KQZ753
Do	KRH665
Telephone Answering Service, Inc.	KJU799
Telephone Answering Service of Owensboro, Inc.	KIN649
Do	KQZ722

LOUISIANA

AAA Telephone Answering Service & Medical Exchange, Inc.	KLB781

MAINE

Radio Telephone of Maine	KQZ780

MARYLAND

American Radio-Telephone Service, Inc.	KGA249
Salisbury Answering Service	KGH868

MASSACHUSETTS

Business & Prof. Men's Exchange Inc.	KLF513
Colgan Comm., Inc	KLF525
Do	KRS669
Mobilefone of Boston	KCA240
Peabody Tel. Answ. Ser	KSV954
Tel. Answ. Ser. of Taunton	KTS252

MICHIGAN

Mobile Radio Tel. & Paging Service, Inc.	KRM951
Radio Dispatch Service	KQK577
Waldo I. Wilson	KQA647
Do	KUC844

MINNESOTA

Airsignal International, Inc	KAA285
Do	KAH661
Do	KSV991
Mankato Answ. Ser., Inc	KTS218
Metro Fone Comm., Inc	KRS655
Minn. Comm. Corp	KSV993

MISSISSIPPI

Alco Tel. Answ. Ser. of Greenville, Miss., Inc.	KFL932
Do	KRM992
Mobile Telecomm. Corp	KKE968
Monroe Radiotelephone Co	KKM574
Do	KKX711

MISSOURI

Airsignal International, Inc	KAF245
Central Mobilphone, Inc	KBM516
Do	KEK297
Do	KEK298
Do	KFJ899
Certified Comm., Inc	KAF240
Do	KRS635
J & S Comm., Co	KUC843

NEVADA

Nevada Mobile Tel. Company	KSV953
WUI/TAS of Las Vegas, Nevada, Inc.	KOK334

NORTH CAROLINA

Albemarle Communications, Inc.	KFL935
Radio Dispatch Co	KUO630
Two-Way Radio of Carolina, Inc.	KIY441
Do	KIY754
Do	KIY755
Do	KLF612
Do	KUA277

OHIO

Airsignal International, Inc	KQB688
Instant Communications, Inc	KUC872
Miami Valley Radiotelephone	KLF577
Do	KQK592
Do	KRM949
Do	KUO577
Stark Radio Telephone	KLF582
Do	KQD615

OREGON

Airsignal International, Inc	KOA796
Communication Specialists Co., Inc.	KOP296
Do	KOP297
Do	KOP322

PENNSYLVANIA

Airsignal Inter. of Philadelphia, Pa.	KGA804
Do	KGA805
Do	KGC223
Do	KGC596
Professional Communications, Inc.	KGI780
Radio Broadcasting Co	KUC898

SOUTH CAROLINA

Myrtle Beach Radio Tel. & Paging Service.	KIK581
Do	KRM944

TENNESSEE

Airsignal International, Inc	KIF653
Mahaffey Message Relay, Inc	KUC870
Radio Call Company	KFJ903
Do	KUO568

TEXAS

Airsignal International, Inc	KKE964
Do	KKG411
Do	KKG561
Answer, Inc., of Galveston	KLB617
Answer, Inc., of San Antonio	KKG559
Do	KRS652
Bruce Graham	KLB689

TEXAS

Harry J. Kaindl, Jr	KTS266
Mobile Communications, Inc	KSV943
Mobile Telecommunications Corp.	KTS284
Texoma Mobilfone, Inc	KLB502
Do	KLF523
Do	KLF524

VERMONT

Tel. Answering Bureau, Inc	KLF487

WASHINGTON

Central Comm., Inc	KQZ773
Mobilefone Northwest	KFL918
Do	KLF563
Do	KLF622
Do	KLF643
Do	KOA605
Do	KOE516
Do	KOF343
Do	KOF918
Do	KOP261
Do	KOP262
Do	KTR998
Do	KUA285
Pass Word, Inc	KOA271
Do	KMM697
Rad-Com Electronics, Inc	KOP298
Do	KRS650
State-Wide Communications	KFL928
Tel. Message Exchange	KRS678
Yakima Tel. Answering Ser., Inc.	KTS216

Major Amendment:

7862-C2-P-(4)-70, The Redco Corporation and Roy M. Tell and Lowry McKee d/b as Mobilfone (NEW), La Feria, Texas. Amend to change the applicant from The Redco Corporation and Roy M. Teel and Lowry McKee d/b as Mobilfone to Mobilfone Service, Inc. All other particulars of operation remain as reported in PN #494 dated June 1, 1970.

Corrections:

MASSACHUSETTS

Correct entry of renewal of license for Nashville Mobilphone, Inc. Call sign should be KLF652 instead of KLF651. All other particulars to remain as reported on PN #692, 3-18-74.

MINNESOTA

Delete entry of *Renewal of License* for Metro Fone Communications, Inc. Station KRS 655. All other particulars to remain as reported on PN #691 dated March 11, 1974.

RURAL RADIO SERVICE

60242-C6-P-74, The Mountain States Telephone and Telegraph Company (NEW). C.P. for a new rural subscriber station to operate on 459.40 MHz to be located 8.7 miles NNE of Casper, Wyoming.

POINT-TO-POINT MICROWAVE RADIO SERVICE

3473-C1-P-74, RCA Alaska Communications, Inc. (WKS50), Tern Lake, 6 miles ENE of Moose Pass, Alaska. Lat. 60°32'00'' N., Long. 149°31'56'' W. C.P. to add freq. 2176.8H MHz towards Cooper Landing, Alaska, via Passive Reflector.

3474-C1-P-74, Same (New), Cooper Landing, Alaska. Lat. 60°29'26'' N., Long. 149°49'-49'' W. C.P. for a new station on freq. 2126.8H MHz towards Tern Lake, Alaska, via Passive Reflector.

3475-C1-P-74, The Cheasapeake and Potomac Telephone Company of West Virginia (KQM84), Bridgeport Hill, 1 mile East of Clarksburg, West Virginia. Lat. 39°16'31'' N., Long. 80°17'30'' W. C.P. to replace transmitter and change power on freq. 10795V MHz towards Halleck, West Virginia, on azimuth 52°55'.

3476-C1-P-74, Same (KQN93), Halleck, 10 Miles South of Morgantown, West Virginia. Lat. 39°28'28'' N., Long. 79°57'03'' W. C.P. to replace transmitter and change power on freqs. 11245V MHz towards Bridgeport Hill, West Virgnia, on azimuth 233°08'; and freq. 11365V MHz towards Terra Alta, West Virginia, on azimuth 83° 38'.

3477-C1-P-74, Same (KQN94), 5 miles North of Terra Alta, West Virginia. Lat. 39°30'-35'' N., Long. 79°32'03'' W. C.P. to replace transmitter and change power on freq. 10915V. MHz towards Halleck, West Virginia, on azimuth 263°54'.

3432-C1-P-74, Wisconsin Telephone Company (KSJ52), 103 West Third Street, Beaver Dam, Wisconsin. Lat. 43°27'29'' N., Long. 88°50'12'' W. C.P. to change antenna system, power and replace transmitters on freq. 6004.5V MHz and 6123.1V MHz towards Watertown, Junction, Wisconsin, on azimuth 149°56'.

3433-C1-P-74, Same (KSJ53), 4 miles NE of Watertown, Wisconsin. Lat. 43°14'28'' N., Long. 88°39'54'' W. C.P. to change antenna system, power on freq. 6256.5V and 6375.2V MHz towards Beaver Dam, Wisconsin, on azimuth 330°03'; and correct coordinates to read as above.

3478-C1-P-74, Hawaiian Telephone Company (New), 0.02 mile North of Kapaau P.O., Kohala, Hawaii. Lat. 20°14'03'' N., Long. 155°48'14'' W. C.P. for a new station of freq. 2168.4V MHz towards Honokaa, Hawaii, via Passive Reflector.

3479-C1-P-74, Same (KUV85), Intersection of Mamane and Ilima Streets, Honokaa, Hawaii. Lat. 20°04'51'' N., Long. 155°28'-01'' W. C.P. to add freq. 2118.4V MHz towards a new point of communication at Kohala, Hawaii, via Passive Reflector.

3480-C1-TC-(11)-74, Tower Communications Systems Corporation. Consent to Transfer of Control from Tower Communications Systems Corporation, TRANSFEROR to Communications Properties, Inc., TRANSFEREE for Station KQO40, St. Louisville, Ohio; KQO41, Coshocton, Ohio; KQO42, Shanesville, Ohio; KQO43-New Philadelphia, Ohio; KQA33-South Portsmouth, Ohio; KQA36, Ball Knob, Ohio; WPF49, Stoutsville, Ohio; WKS45, Newark, Ohio; WSL41, Hillsboro, Ohio; WPX99, Columbus, Ohio, and WQR58, Ironton, Ohio.

3481-C1-AL-(5)-74, John Walson d/b/a Service Electric Microwave Company Consent to assignment of Licenses from John Walson d/b/a Service Electric Microwave Company, ASSIGNOR to Penn Service Microwave Co., Inc., ASSIGNEE for stations: KGI61, Pimple Hill, Pennsylvania; KGH98,

Pimple Hill, Pennsylvania; KGH99, Bears Head, Pennsylvania; KGI69, Nescopeck Mtn., Pennsylvania, and KGJ20, Montour Ridge, Pennsylvania.

3482–C1–P–74, The Bell Telephone Company of Pennsylvania (New), Juniata, 2.25 miles NNE of Altoona, (Blair) Pennsylvania. Lat. 40°32'42" N., Long. 78°23'02" W. C.P. for a new station on freq. 11075.0V MHz towards Snyder, (near Tyrone), Pennsylvania, on azimuth 14°24'.

3483–C1–P–74 Same (New), 110 S. 4th Street, Philipsburg (Center) Pennsylvania. Lat. 40°53'47" N., Long. 78°13'09" W. C.P. for a new station on freq. 11075.0V MHz towards Snyder (near Tyrone) Pennsylvania, on azimuth 205°00'.

3484–C1–P–74, Same (New), at Snyder Geodetic Survey Marker, 5.9 miles NW of Tyrone P.O. (Blair) Pennsylvania. Lat. 40° 43'43" N., Long. 78°19'19" W. C.P. for a new station on freqs. 11605.0V MHz towards Philipsburg, Pennsylvania, on azimuth 24°56'; freq. 11605.0V MHz towards Juniata, Pennsylvania, on azimuth 194°26'.

3485–C1–P–74, United Video, Inc. (New), 1½ miles N of Rolunson, Illinois. Lat. 39°01' 40" N., Long. 87°45'29" W. C.P. for a new station on freq. 6375.2V MHz towards Olney, Illinois, on azimuth 221°17'.

3486–C1–P–74, Same (New), North 0.5 mile from Downtown Olney, Illinois. Lat. 38° 44'18" N., Long. 88°04'55" W. C.P. for a new station on freq. 6093.5H MHz towards Effingham, Illinois, on azimuth 318°51'.

3487–C1–P–74, Same (New), 0.9 mile east of Effingham, Illinois. Lat. 39°07'35" N. Long. 88°31'06" W. C.P. for a new station on freq. 11465.0V MHz towards Vandalia, Illinois, on azimuth 248°44'.

3488–C1–P–74, Same (New), 0.4 mile south of Vandalia, Illinois. Lat. 38°56'53" N., Long. 89°06'01" W. C.P. for a new station on freq. 10895.0V MHz towards Greenville, Illinois, on azimuth 250°22'.

3489–C1–P–74, United Video, Inc. (New), 2.6 miles Southwest of Greenville, Illinois. Lat. 38°51'02" N., Long. 89°26'53" W. C.P. for a new station on freq. 11305.0H MHz towards Collinsville, Illinois, on azimuth 246°57'.

3490–C1–P–74, Same (New), 4.2 miles WNW of Collinsville, Illinois. Lat. 38°42'02" N., Long. 89°53'43" W. C.P. for a new station on freq. 10815.0V MHz towards St. Louis, Missouri, on azimuth 258°08'.

3491–C1–P–74, The Mountain States Telephone and Telegraph Company (New), Fort Hall Avenue, and Idaho Street, American Falls, (Power) Idaho. Lat. 42°47'04" N., Long. 112°51'18" W. C.P. for a new station on freq. 11405H MHz and 11645V MHz towards Pocatello, Idaho, on azimuth 75°28'.

3492–C1–P–74, Same (KPC83), 3.0 miles SW of Pocatello, (Power) Idaho. Lat. 42°50'55" N., Long. 112°30'58" W. C.P. to add freqs. 10715V and 10955H MHz towards a new point of communication at American Falls, Idaho, on azimuth 255°42'.

3493–C1–P–74, The Pacific Telephone and Telegraph Company (KMZ71), Tassajera, 5.5 Miles West of Santa Margareta (Luis Obispo) California. Lat. 35°23'37" N., Long. 120°42'29" W. C.P. to add freq. 3790V MHz towards San Ardo, California, on azimuth 337°47'; freq. 10795H MHz towards San Luis Obispo, California, on azimuth 161°22'.

3494–C1–P–74, Same (KMZ72), 872 Morro Street, San Luis Obispo, California. Lat. 35°16'58" N., Long. 120°39'45" W. C.P. to add freq. 11325V MHz towards Tassajera, California, on azimuth 341°24'.

3495–C1–P–74, Same (WHB67), 7.6 miles SSW of Greenfield, (Monterey) California. Lat. 36°13'11" N., Long. 121°18'03" W. C.P. to add freq. 3790V MHz towards Chualar, California on azimuth 338°43'; freq. 3790H MHz towards San Ardo, California, on azimuth 136°15'.

3496–C1–P–74, Same (WHB66), 6.8 miles North of Chualar, (Monterey) California. Lat. 36°40'06" N., Long. 121°31'09' W. C.P. to add freq. 3830V MHz towards Loma Prieta Mtn., California on azimuth 329°26'; freq. 3880V MHz towards Greenfield, California, on azimuth 158°36'.

3497–C1–P–74, Same (KMJ93), Loma Prieta Mountain, (Santa Clara) California. Lat. 37°06'31" N., Long. 121°50'39" W. C.P. to add freq. 3790V MHz towards Chualar, California, on azimuth 149°14'.

3498–C1–P–74, Same (WHB68), 6.7 miles SW of San Ardo (Monterey), California. Lat. 35°57'14" N., Long. 120°59'23" W. C.P. to add freq. 3830H MHz towards Greenfield, California on azimuth 316°26'; freq. 3830V MHz towards Tassajera, California, on azimuth 157°37'.

3499–C1–P–74, Mountain Microwave Corporation (KBI23), 12 miles WSW of Eads, Colorado. Lat. 38°24'29" N., Long. 102°58'29" W. C.P. to add point of communication on freq. 6265.9V, 6365.9V, 6315.9V, 6404.8V and 6215.9V MHz (via power split) towards La Junta, Colorado, on azimuth 228°13'.

3500–C1–P–74, United Video, Inc. (WOE69), 2.3 miles WSW of Henryetta, Oklahoma. Lat. 35°25'50" N., Long. 96°02'20" W. C.P. to add point of communication on freq. 11425V and 11345V MHz (via power split) towards Eufaula, Oklahoma, on azimuth 94°15'.

3501–C1–P–74, Garden State Micro Relay, Inc. (KEM56), 0.55 miles West of Milmay, New Jersey. Lat. 39°26'21" N. Long. 74°52'03" W. C.P. to add new point of communication on freq. 5960.0V MHz (via power split) towards Swainton, New Jersey, on azimuth 168°48'.

3502–C1–P–74, Same (New) Swainton, New Jersey. Lat. 39°07'47" N. Long. 74°47'20" W. C.P. for a new station on freq. 6352.9V MHz towards Wildwood, New Jersey (WCMC–TV), on azimuth 187°54'.

3503–C1–P–74, Mid-Kansas, Inc. (KBC62), 1.5 miles WSW of Junction City, Kansas. Lat. 39°00'53" N., Long. 96°52'15" W. C.P. to change antenna configuration due to destruction of permanent antenna structure.

3504–C1–P–74, Andrews Tower Rental, Inc. (KLP96), 1.9 miles West of Brownwood, Texas. Lat. 31°43'33" N., Long. 99°00'54" W. C.P. to add freq. 6315.9H and 6404.8H MHz (via power split) towards Santa Ana, Texas, on azimuth 274°53'.

3505–C1–P–74, Pacific Telatronics, Inc. (KPQ-91), Blanton Heights, 3.5 miles South of Eugene, Oregon. Lat. 44°00'05" N., Long. 123°06'18" W. C.P. to change freqs. to 5937.8H and 5967.4V MHz towards Harness Mountain, Oregon, on azimuth 179°00'.

3511–C1–P/ML–74, American Telephone and Telegraph Company (KEE54), 0.5 mile West of Navesink, (Monmouth) New Jersey. Lat. 40°24'11" N., Long. 74°02'38" W. C.P. and Mod of Lic. to change antenna system and points of communication on freqs. 3710H, 3790H, 3870H, and 4030H MHz towards Far Rockaway, New York, on azimuth 47°35'.

3512–C1–P/L–74, same (New) 13–11, Bayport Place, Far Rockaway (Queens), New York. Lat. 40°36'21" N., Long. 73°45'08" W. C.P. and Lic. for a new station on freq. 3750H, 3830H, 3910H, and 4070H MHz towards Navesink, New Jersey, on azimuth 227°46'; freq. 3730V, 3810V, 3890V, and 4050V MHz towards Hempstead, New York, on azimuth 42°32'.

3513–C1–P–74, American Telephone and Telegraph Company (KEE55), Terrace and Fulton Avenues, Hempstead (Nassau), New York. Lat. 40°42'29" N. Long. 73°-37'44" W. C.P. to change antenna system, freq. and points of communications to 3770V, 3850V, 3930V, and 4090V MHz towards Far Rockaway, New York, on azimuth 222°37'.

3514–C1–P–74, Same (WHT82), 6.5 miles E. of Dahlonega (Lumpkin), Georgia. Lat. 34°31'50" N., Long. 83°51'52" W. C.P. to add freq. 3850V MHz towards Currahee, Mountain, Georgia on azimuth 90°01'.

3515–C1–P–74, Same (KID65), 4.5 miles SW of Toccoa (Stephen), Georgia. Lat. 34°-31'46" N., Long. 83°22'30" W. C.P. to add freq. 3810V MHz towards Dahlonega 2, Georgia, on azimuth 270°18'.

3516–C1–P–74, Southern Bell Telephone and Telegraph Company (KIL89), 1.9 miles SE of Newington (Screven), Georgia. Lat. 32°33'57" N., Long. 81°29'17" W. C.P. to change antenna system and add freq. 3990V MHz towards Allendale, South Carolina, on azimuth 14°11' and freq. 4170V MHz towards Marlow, Georgia, on azimuth 163°27'.

3517–C1–P–74, Same (KIL90), 5.2 miles SE of Marlow (Effingham), Georgia. Lat. 32°-12'03" N., Long. 81°21'38" W. C.P. to change polarization on freq. 3710, 3790, and 3870 towards Newington, Georgia, from Vertical to Horizontal add freq. 3950H towards Newington, Georgia, on azimuth 343°31'; freq. 4130H MHz towards Savannah, Georgia, on azimuth 119°11'.

3518–C1–P–74, Same (KJC89), 3 miles NW of Allendale, South Carolina. Lat. 33°01'56" N., Long. 81°20'53" W. C.P. to add freqs. 4130 MHz towards Newington, Georgia, on azimuth 194°16'; freq. 3890V MHz towards Hancock Landing, Georgia, on azimuth 288°00'.

3519–C1–P–74, Same (KJL30), 322 Drayton Street, Savannah (Chatham), Georgia. Lat. 32°04'23" N., Long. 81°05'33" W. C.P. to add freq. 3990V MHz and Change polarization on freq. 3750, 3830, 3910 from Horizontal to Vertical towards Marlow, Georgia, on azimuth 299°20'.

5320–C1–P–74, Same (KTF45), 937 Greene Street, Augusta (Richmond), Georgia. Lat. 33°28'30" N., Long. 81°58'10" W. C.P. to add freq. 4090V MHz towards Hancock Landing, Georgia, on azimuth 155°29'.

3521–C1–P–74, Same (WOF35), 2 miles West of Hancock Landing (Burke), Georgia. Lat. 33°09'13" N., Long. 81°47'43" W. C.P. to add freqs. 4130V MHz towards Augusta, Georgia, on azimuth 335°35'; freq. 3930V MHz towards Allendale, South Carolina, on azimuth 107°45'.

3471–C1–P–74, Service Electric, Co. (KGH99), Bears Head Mountain, 1 mile North of Delano, Pennsylvania. Lat. 40°51'00" N., Long. 76°04'48" W. C.P. to change transmitter on freqs. 6100V, 6175V, and 6250V MHz towards Sharp Mountain, Pennsylvania, on azimuth 211°30'; and via power split, towards Nescopeck Mountain, Pennsylvania, on azimuth 327°00'.

3472–C1–P–74, Same (KGH98), Pimple Hill, 8 miles SE of Glakeslee, Pennsylvania. Lat. 41°01'40" N., Long. 75°30'25" W. C.P. to change transmitters on freqs. 5935H, 6025H, 6310H, 6415H MHz towards Wyoming Mountain, Pennsylvania, on azimuth 305° 30'; and via power split towards Bears Head Mountain, Pennsylvania, on azimuth 247° 00'.

3530–C1–P–74, The Mountain States Telephone and Telegraph Company (KPV87), 119 West Valentine Street, Glendive (Dawson), Montana. Lat. 47°06'15" N., Long. 104°42'56" W. C.P. to add freqs. 11405V MHz and 11645H towards Glendive, Junction, via passive repeater.

3531–C1–P–74, Same (KPH75), 10.3 miles East of Glendive (Dawson), Montana. Lat. 47°

07'05" N., Long. 104°28'35" W. C.P. to change power and replace transmitter on freqs. 10955V and 10715H MHz towards Glendive, via passive repeater.

3532-C1-P-74, Southern Bell Telephone and Telegraph Company (KJL30), 322 Drayton Street, Savannah (Chatham) Georgia. Lat. 32°04'23" N., Long. 81°05'33" W. C.P. to add freq. 2170.4V MHz and change polarization on freq. 2178.4 MHz towards Hilton Head Island, South Carolina, from Vertical to Horizontal on azimuth 71°31'.

3533-C1-P-74, Same (KJW76), State Highway #46, Hilton Head Island (Beaufort), South Carolina. Lat. 32°10'27" N., Long. 80°44'06" W. C.P. to add freq. 2120.4V MHz and change polarization on freq. 2128.4 MHz from Vertical to Horizontal towards Savannah, Georgia, on azimuth 251°43'.

3534-C1-P-74, American Telephone and Telegraph Company (KKK82), 3.8 miles NW of El Llainta (Sandoval), New Mexico. Lat. 35°22'22" N., Long. 106°34'15" W. C.P. to add freq. 3950H MHz towards Albuquerque, New Mexico, on azimuth 192°52'.

3535-C1-P-74, Same (KKW-31), 120 4th Street, Albuquerque (Bernalillo), New Mexico. Lat. 35°05'06" N., Long. 106°39'03" W. C.P. to add freq. 3990H MHz towards Bernalillo, New Mexico, on azimuth 12°50'.

3536-C1-P-74, Same (KLN81), 2.0 miles NNW of Wayside (Armstrong), Texas. Lat. 34°49'-22" N., Long. 101°33'47" W. C.P. to add freq. 3710V MHz towards Silverton, Texas, on azimuth 156°38' and correct coordinates to read as above.

3537-C1-P-74, American Telephone and Telegraph Company (KLN82), 11.0 miles NW of Silverton (Briscoe), Texas. Lat. 34°34'49" N., Long. 101°26'11" W. C.P. to add freq. 3750V MHz towards Lockney, Texas, on azimuth 179°36'; and change coordinates to read as above.

3538-C1-P-74, Same (KLN83), 4.0 miles North of Lockney (Floyd), Texas. Lat. 34°11'05" N., Long. 101°25'59" W. C.P. to add freq. 3710V MHz towards Petersburg, Texas, on azimuth 202°57'; change coordinates to read as above.

3539-C1-P-74, Same (KLO77), 2.0 miles South of Petersburg (Hale), Texas. Lat. 33°50'31" N., Long. 101°36'25" W. C.P. to add freq. 3750H MHz towards Slaton, Texas, on azimuth 174°55'; change coordinates to read as above.

MULTIPOINT DISTRIBUTION SERVICE:

50042-C5-P-74, Peninsula Broadcasting Corporation (New), Monticello Hotel, East Market Street, between 5th and 6th Streets, Charlottesville, Virginia. Lat. 38°01'51" N., Long. 78°28'40" W. C.P. for a new station on freq. 2154.75 (Visual) and 2150.25 (Aural). (Primary Service Area: Charlottesville, Virginia.)

50043-C5-P-74, Same (New), Little Brushy Mountain, 2 miles north of Salem, Virginia. Lat. 37°18'12" N., Long. 80°05'43" W. C.P. for a new station on freq. 2154.75 (Visual) and 2150.25 (Aural). (Primary Service Area: Roanoke, Virginia.)

NOTICE:

The time for filing amendments to pending applications in the Multipoint Distribution Service as ordered by the Commission in its *Report and Order* in Docket No. 19493, released on January 18, 1974 (FCC 74-34), has been extended through April 19, 1974. It is anticipated that applications that have not been amended by such date (or the Commission otherwise notified that no amendment is required to bring them into compliance with the rules) will be dismissed.

Also, it is noted that a number of applications on file still contain deficiencies in the following respects:

(a) The requirement concerning the need for state authorization for intrastate service is not fully explained. See rule § 21.15(c)(4) and Public Notice of January 15, 1973 (Report No. 631).

(b) Analyses of potential interference to or from another existing or proposed station within 50 miles is inadequate or missing. See rule § 21.902(c).

(c) Statement concerning availability of transmitter site is missing. See rule § 21.15(c)(5) and Public Notice of January 29, 1973 (Report No. 633).

In amending applications applicants should pay particular attention to correcting these and other deficiencies which may not be directly related to new MDS rules in Subpart K of Part 21.

Major Amendments

Amend following pending applications to change applicant from Video Microwave, Inc., to Southern Pacific Communications Company d/b/a Southern Pacific Communications. File Nos. 4685/4688-C1-P-73; 4689/4693-C1-P-73; 5231/5234-C1-P-73; 6391/6393-C1-P-73; 8289/8292-C1-P-73; 473, 474 and 475-C1-P-74.

2415-C1-MP-74, N-TRIPLE-C INC. (WJL68), 6.0 miles ENE of Thayer (Oregon), Missouri. Lat. 36°32'48" N., Long. 91°25'48" W. Application amended to change antenna location to above coordinates, to change azimuth to 154°10' and 295°17' towards Imboden, Arkansas, and West Plains Missouri, respectively.

774-C1-P-72, CPI Microwave of Louisiana, Inc. (New), 1.2 miles N. of Montigur (Terrebonne), Louisiana. Lat. 29°29'06" N., Long. 90°33'24" W. Application amended to change station location to above coordinates on freqs. 5974.8V, 5945.2H, and 5974.8H MHz towards Leeville, Louisiana, on azimuth 131°39', Crescent farms Farms, Louisiana on azimuth 302°36' and Delta Farms, Louisiana, on azimuth 64°06', respectively.

776-C1-P-72, Same (New), 1.0 mile NE of Grand Isle, Louisiana. Lat. 29°14'53" N., Long. 89°58'24" W. Amend application to replace freq. 6063.8H with 5967.4V MHz towards Buras, Louisiana, on azimuth 74°42'.

777-C1-P-72, Same (New), Buras (Plaquemines), Louisiana. Lat. 29°21'18" N. Long. 89°31'26" W. Amend application to replace freq. 6212.0H with 6278.8V MHz towards Grand Isle, Louisiana, on azimuth 254°55'.

778-C1-P-72, Same (New), Delta Farms, 6 miles SW of Lafette (LaFourche), Louisiana. Lat. 29°33'23" N., Long. 90°11'27" W. Amend application to change freq. from 6330.7V to 6390.0V MHz towards New Orleans, Louisiana, and to change Point of Communication on freq. 6226.9H MHz to Montegut, Louisiana, on azimuth 244°17'.

779-C1-P-72, Same (New), One Shell Square, New Orleans (Orleans), Louisiana. Lat. 29°56'57" N., Long. 90°04'16" W. Amend application to change station location to above coordinates transmitting on freq. 6137.9V MHz towards Delta Farms, Louisiana, on azimuth 198°41'.

2055-C1-P-74, Pacific Telatronics, Inc. (KTG46). Application amended to change azimuth towards Soda Creek Ridge to 85°37'.

405-C1-P-71, United Video, Inc. (New), 0.4 miles West of Ardmore, Oklahoma (Lat. 34°09'35" N., Long. 97°09'30" W.). Application amended to change freq. to 11385V MHz towards Loco, Oklahoma, on azimuth 292°20'.

(INFORMATIVE: File Nos. 405 thru 407-C1-P-71 (Cablecom-General, Inc.) are amended to change applicant to United Video, Inc.)

1563-C1-P-74, Microwave, Inc. (WQP50), Pawnee, Texas. Lat. 28°44'29" N., Long. 98°01'38" W. Amendments to substitute frequency 6390.0H for 6419.6V towards Beeville on azimuth 163°23'.

1565-C1-P-74, Same (WQP52), Mathis, Texas. Lat. 28°03'07" N., Long. 97°46'15" W. Amendment to substitute frequency 6271.4V for 6419.6H towards Violet on azimuth 148°10'.

Corrections

3364-C1-P-74, General Telephone Company of Florida (KIL88), Knights, Florida. Correct to read: C.P. to change power and increase the message circuit capacity from 1200 to 1500 voice channels on freqs. 3790V, 3810H, MHz towards Polk City, Florida.

3083-C1-P-74, New England Telephone and Telegraph Company (KZI59), Dunbarton, New Hampshire. Correct to read: C.P. to add freq. 6093.5V MHz towards Springfield, New Hampshire; freq. 6095.5H MHz towards Springfield, New Hampshire; freq. 6095.5H HMz towards Manchester, New Hampshire.

3084-C1-P-74, Same (WAD82), Oak Hill, New Hampshire. Correct to read: C.P. to add freq. 6345.5V MHz towards Enfield, New Hampshire; freq. 6345.5H MHz towards Dunbarton, New Hampshire.

3085-C1-P-74, Same (WAD81), Enfield, New Hampshire. Correct to read: C.P. to add freqs. 6093.5V MHz towards West Lebanon, New Hampshire; freq. 6093.5H MHz towards Springfield, New Hampshire. (All other particulars same as reported on PN No. 688, dated 2/19/74.)

[FR Doc.74-7423 Filed 4-2-74;8:45 am]

FEDERAL MARITIME COMMISSION

BLACK SEA STEAMSHIP CO.

Notice of Issuance of Certificate [Performance]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Black Sea Steamship Company,
c/o March Shipping Passenger Services,
19 Rector Street
New York, New York 10006

Dated: March 29, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-7690 Filed 4-2-74;8:45 am]

CONTINENTAL NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

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 Old San Juan, 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 April 23, 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:

Howard A Levy, Esq.
Suite 631
17 Battery Place
New York, New York 10004

Agreement No. 8210–25, among the member lines of the above named conference, modifies the basic agreement to (1) extend its scope to include U.S. South Atlantic coastal ports and ports on inland waterways tributary to such ports and navigable to member lines' vessels; (2) allow any member line operating a LASH/SEABEE type service to charter barges to any vessel-operating common carrier in the trade, provided such carrier agrees to operate the barges under conference rates, rules and self-policing procedures; (3) remove the power to grant independent action from the emergency rate committees; (4) allow cargo to be forwarded at a member lines' expense between Bremen/Bremerhaven and ports downriver from Bremen and between Hamburg and ports downriver; and (5) provide that when cargo is designated as peculiar to the South Atlantic range or to a particular mode of carriage, only those members providing such service may vote on matters pertaining thereto.

By Order of the Federal Maritime Commission.

Dated: March 29, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–7689 Filed 4–2–74;8:45 am]

[Docket No. 73–7; Agreement No. T–2719]

PORT OF HOUSTON AUTHORITY AND LOUIS DREYFUS CORP.

Amended Order of Investigation and Hearing

This proceeding was instituted by Order of Investigation and Hearing served February 26, 1973, to determine (1) whether Agreement No. T–2719 (the Agreement) between the Port of Houston Authority (PHA) and the Louis Dreyfus Corporation (Dreyfus), if found subject to the requirements of section 15 of the Shipping Act, 1916, should be approved pursuant to that section, and (2) whether the implementation of the Agreement, which provides for the lease of the public grain elevator at Houston, Texas, to Dreyfus for a period of 10 years, would result in any practice which is violative of sections 16 and 17 of the Act.

The jurisdictional questions presented by the Agreement, i.e. whether Dreyfus was an "other person subject to the Act" and whether the Agreement was subject to section 15, were, by order of the same date, made the subject of a show cause proceeding in companion Docket No. 73–6.

Subsequently, on April 20, 1973, the Commission served its Report and Order in Docket No. 73–6, *In the Matter of Agreement No. T–2719*, ____ F.M.C. ____ (1973), wherein it was found that the Agreement was not one subject to the provisions of section 15. The Commission based its lack of jurisdiction on the finding that Dreyfus was not an "other person subject to the Act" within the meaning of sections 1 and 15 thereof.

Following the Commission's issuance of its Report and Order in Docket No. 73–6, Cook Industries, Inc. (Cook), an intervenor in both that proceeding and the one here, petitioned the United States Court of Appeals for the District of Columbia Circuit to review and set aside the Commission's decision or, in the alternative, to remand the proceedings to the Commission for evidentiary hearings on the section 15 jurisdictional issue. A request for stay of the Commission's decision pending review was granted by the Court.

The Court, on March 20, 1974, handed down its decision in *Cook Industries, Inc., et al.* v. *Federal Maritime Commission, et al.* (Nos. 73–1415 and 73–1482), wherein it remanded the proceedings to the Commission for evidentiary hearing. In so doing, the Court explained that:

> * * * there exist in this proceeding material issues of fact, as yet unresolved, which require a full evidentiary hearing for their ultimate disposition. Absent the information that this hearing would elicit, especially the effect of Joseph's operations on Dreyfus' status under the Act, the Commission cannot make the necessary findings and determinations in this proceeding.[1]

In accordance with the Court's decision, we are amending the Order of Investigation and Hearing in this proceeding to specifically include as an issue the matter of Dreyfus' status under the Act as it relates to the Commission's jurisdiction over the Agreement under section 15. Since the effect of Joseph's operations on Dreyfus' status, as they relate to the manner in which Joseph intends to move its products from the elevator facility may have a particular bearing on the resolution of the jurisdictional issue, these matters should be thoroughly explored in the expanded proceeding.

Finally, because this investigation has already been considerably delayed as a result of the Court proceedings, we are directing that this investigation proceed forthwith and that the Administrative Law Judge hereinafter expedite the proceeding to the fullest extent practicable.

Therefore, *It is ordered*, That our Order of Investigation and Hearing served on February 26, 1973, in this proceeding be amended to include as issues for resolution therein the questions of whether Dreyfus is an "other person subject to the Act" within the meaning of section 1 thereof, and if so, whether Agreement T–2719 is accordingly subject to the requirements of section 15 of the Act.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–7691 Filed 4–2–74;8:45 am]

RED SEA AND GULF OF ADEN/U.S. ATLANTIC AND GULF RATE AGREEMENT

Notice of Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect a copy of the current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract, at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126 or at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments with reference to the proposed changes and the petition, including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, on or before April 23, 1974. Any person desiring a hearing on the proposed modification of the contract form and/or the approved contract system 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 petition (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of a Petition to Extend the Termination Date of a Dual Rate Contract System Filed by:

William L. Hamm, Chairman, Red Sea and Gulf of Aden/U.S. Atlantic and Gulf Rate Agreement, 25 Broadway, New York, New York 10004

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[1] The Agreement is subject to a prior lease of a portion of the facilities to the I. S. Joseph Company (Joseph), which is engaged in pelletizing "* * * a number of different soft or powdery substances or ingredients" and in exporting the pelletized product.

Notice is hereby given that the member lines of the Red Sea and Gulf of Aden/U.S. Atlantic and Gulf Rate Agreement have filed with the Commission, pursuant to section 14b of the Shipping Act, 1916, a petition, denominated as No. 8558 DR-4, for permanent approval of the dual rate contract system on Coffee, or, in the alternative for a minimum period of three more years. Approval of the contract is now scheduled to terminate on June 14, 1974. The trade area covered by the rate agreement is from Red Sea and Gulf of Aden ports to U.S. Atlantic and Gulf ports and ports in Puerto Rico and the Virgin Islands.

By Order of the Federal Maritime Commission.

Dated: March 29, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-7688 Filed 4-2-74;8:45 am]

SOUTH AND EAST AFRICA/U.S.A. CONFERENCE

Notice of Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to Section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect a copy of the current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract, at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126 or at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments with reference to the proposed changes and the petition, including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C., 20573, on or before April 23, 1974. Any person desiring a hearing on the proposed modification of the contract form and/or the approved contract system 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 petition (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of a Petition to Extend the Expiry Date of an Approved Dual Rate Contract System Filed by:

William L. Hamm, Chairman,
South and East Africa/U.S.A. Conference,
25 Broadway,
New York, New York 10004

The South and East Africa/U.S.A. Conference has filed a petition, denominated as No. 8054 DR-5, requesting that the term of its presently approved exclusive patronage (dual rate) contract system be extended indefinitely or for a minimum period of three more years. Approval of the contract is presently scheduled to expire on June 14, 1974. The contract is applicable to general cargo, except coffee, transported by the Conference's member lines from ports in Southwest, South, Southeast, and East Africa as well as islands in the Indian Ocean including Madagascar, Reunion, Mauritius, the Comores, and Seychelles, and the islands of Ascension and St. Helena to U.S. Atlantic and Gulf ports.

By Order of the Federal Maritime Commission.

Dated: March 29, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-7687 Filed 4-2-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RP72-154, RP74-43]

EL PASO NATURAL GAS CO.

Order Accepting for Filing and Suspending Proposed Tariff Sheets

MARCH 28, 1974.

On January 31, 1974, El Paso Natural Gas Company filed proposed revisions in its FPC Gas Tariff, First Revised Volume No. 3 [1] pursuant to its purchased gas adjustment clause (PGA). El Paso claims that the revisions reflect the increase in the price of domestic and imported gas incurred by its Northwest Division System,[2] and a revised surcharge to recover the balance in the Unrecovered Purchase Gas Costs Account (Account 191). El Paso requests an April 1, 1974, effective date.

Notice of the filing was issued on February 11, 1974, with all comments or petitions to intervene due by February 28, 1974. To date no party has opposed the proposed increase.

On January 11, 1974, Westcoast Transmission Company, Ltd. (Westcoast), El Paso's Canadian supplier, was permitted by the Canadian National Energy Board (NEB) to increase its rates to El Paso retroactively to November 14, 1973. By telegraphic order [3] we permitted El Paso to collect these increased costs effective January 1, 1974. We did not rule on the propriety of El Paso's collecting the increased costs from November 14, 1973, to December 31, 1973, because El Paso had not at that time requested such relief. The instant filing now includes approximately $9.5 million in purchased gas costs attributable to imports during the November 14 to December 31, 1973, period as part of $12.1 million in the deferred account as of December 31, 1973. The rate increase also reflects $215,000 in increased domestic purchased gas costs and $1.5 million in increased imported gas costs from Westcoast.

By prescribing the regulations permitting pipeline companies to establish PGA's in their tariffs [4] we sought to avoid the needless duplication of effort which resulted from the review of purchased gas costs in the context of pipeline rate filings pursuant to section 4 of the Natural Gas Act. The assumption was that these costs were incurred in the purchase of gas from domestic producers subject to the jurisdiction of this Commission. As we review the justness and reasonableness of the rates suppliers charge, it is unnecessary to review those rates once again when the pipelines seek to recover them. The establishment of PGA clauses, however, was not an abdication of our responsibility to review the costs pipelines seek to recover through those clauses, and we have, on occasion, suspended proposed rates and established nearing procedures on filings pursuant to a pipeline's PGA when it was not apparent that the costs reflected therein were just and reasonable.[5]

The costs of imported gas El Paso seeks to reflect in this filing result from payments to a supplier beyond our jurisdiction. We cannot determine on the basis of the pleadings before us if those rates are cost based or whether they are otherwise just and reasonable.

As we stated in Order 452 * * * "(T)his authority (to fix just and reasonable rates) is being exercised herein with adequate safeguards for consumer interests by means of provisions for Commission surveillance and review of PGA clauses and PGA rate changes." (Slip Sheet p. 4.)

Since we cannot determine on the basis of the pleadings before us whether the proposed rates are just and reasonable, we shall accept El Paso's proposed revision as to increases in the price of imported natural gas for filing, suspend it for one day until April 2, 1974, when it shall be permitted to take effect, subject to refund. Moreover, we shall provide that the issues raised by this part of the filing be developed in an evidentiary proceeding. Furthermore, since the increased rates which we permitted El Paso to collect effective January 1, 1974, are based on the same NEB action which precipitates a hearing under section 4 of the Natural Gas Act in the instant filing, we shall set an investigation of the rates

[1] Substitute Fourteenth Revised Sheet No. 10 to FPC Gas Tariff First revised Volume No. 3.

[2] El Paso's Northwest Division was divested to Northwest Pipeline Corporation as of January 31, 1974.

[3] January 24, 1974.

[4] Order 452 issued April 14, 1972.

[5] cf: Trunkline Gas Company, Docket Nos. RP72-23, et al., order issued January 31, 1974.

associated with purchases from Westcoast permitted by the telegraphic order of January 24, 1974.

Since our review of the remainder of El Paso's filing relating to purchased gas increases from domestic suppliers indicates that it is justified, we shall permit that part of the filing to become effective on April 1, 1974, as proposed.

The Commission finds. It is necessary and apropriate in the public interest and to aid in the enforcement of the Natural Gas Act that:

(1) El Paso's January 31, 1974 filing as it relates to increases associated with purchases from Westcoast be accepted for filing, suspended for one day, and set for hearing as hereinafter ordered.

(2) El Paso's January 31, 1974 filing as it relates to increases associated with purchases from domestic suppliers be accepted for filing and made effective April 1, 1974, as proposed.

(3) The increased rates we permitted El Paso to collect by telegraphic order of January 24, 1974, effective January 1, 1974, be set for hearing as hereinafter ordered.

The Commission orders. (A) El Paso's January 31, 1974 filing as it relates to increases associated with purchases from domestic suppliers is accepted for filing, and made effective April 1, 1974.

(B) El Paso's January 31, 1974, filing as it relates to increases associated with purchases from Westcoast is accepted for filing, suspended for one day, and set for hearing under section 4 of the Natural Gas Act.

(C) An investigation is hereby instituted, under Section 5 of the Act, into the increased rates which we permitted El Paso to collect effective January 1, 1974.

(D) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission rules and regulations (18 CFR Ch. I), a hearing shall be held pursuant to § 1.20 of the Commission's rules of practice and procedure on May 14, 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. This hearing shall be for the purpose of cross-examination concerning the lawfulness and reasonableness of the rates and charges in that part of El Paso's January 31, 1974, filing associated with purchases from Westcoast and an investigation of the increased rates which we permitted El Paso to collect effective January 1, 1974.

(E) On or before April 22, 1974, El Paso shall serve its prepared testimony and exhibits on these issues. Any answering evidence will be served on or before April 29, 1974. Rebuttal evidence by El Paso shall then be served on or before May 6, 1974.

(F) Pending hearing and decision thereon, the parts of El Paso's filing covering the purchased gas increases to be paid to Westcoast are accepted for filing, suspended for one day and the use thereof deferred until April 2, 1974.

(G) 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 perscribe 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.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-7592 Filed 4-2-74;8:45 am]

[Docket Nos. G-8934 etc.]

EL PASO NATURAL GAS CO.

Order Granting Motion of Northwest Pipeline Corporation

MARCH 22, 1974.

On January 7, 1974, Northwest Pipeline Corporation (Northwest) filed a motion, pursuant to § 1.12 of the Commission's rules of practice and procedure, to be substituted as party applicant, in lieu of El Paso Natural Gas Company (El Paso) in the above captioned proceedings [1] now pending before the Commission. Northwest further requests that these captioned proceedings be redesignated to reflect Northwest as party applicant effective January 31, 1974, or such later date as actual divestiture of El Paso's Northwest Division System to Northwest occurs.

On September 21, 1973, the Commission issued an order, in Docket No. CP73-331 et al., which permitted approval of abandonment of service and facilities by El Paso and acquisition of those facilities by Northwest, thereby allowing Northwest to operate the interstate pipeline system serving the Rocky Mountain and Pacific Northwest areas being divested by El Paso, pursuant to the decree issued by the United States District Court of Colorado.[2] This order authorized Northwest to continue the importation of natural gas from Canada and to operate the necessary facilities at the international boundary.

The Commission finds:

It is necessary and proper in the public interest that Northwest be substituted as the party applicant in the above proceedings and that said proceedings be redesignated to reflect Northwest as the party applicant.

The Commission orders:

(A) Northwest is hereby substituted as the party applicant in the above captioned proceedings.

(B) The above captioned proceedings are hereby redesignated so as to reflect Northwest as the party applicant.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

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[1] Attached hereto is Appendix A of the motion of Northwest outlining and describing the referenced proceedings.

[2] See *United States of America, Plaintiff* v. *El Paso Natural Gas Company and Pacific Northwest Pipeline Corporation,* Defendants, Civil Action No. C2626.

APPENDIX A.—*Northwest Pipeline Corp. pending certificate applications of El Paso Natural Gas Co. concerning the northwest division system*

Docket No.	Date filed	Description
G-8934 and G-10008	Aug. 20, 1973	Amendment to petition to amend orders at dockets G-8934 and G-10008 so as to authorize deliveries of 7,350 therms on a firm basis and 23,700 therms on an interruptible basis in lieu of previously authorized deliveries.
G-10426	Sept. 22, 1972	Petition to amend order issued Nov. 21, 1957, at Docket No. G-10426, as amended, so as to authorize the sale and delivery of a firm quantity of 150,675 Mcf daily to Colorado Interstate Gas Co. and 75,340 M ft³ daily to Mountain Fuel Supply Co.[1]
CP70-137	Sept. 6, 1972	Petition to amend order so as to increase by 75,000 Mcf daily the volume of natural gas El Paso is authorized to sell on its northwest division system and to allocate the increased volumes thereby changing the contract demand quantities of the northwest division system customers.[1]
CP70-138	Mar. 27, 1973	Petition to amend, as supplemented Aug. 16, 1973, section 3 import authorization so as to permit an amendment to the 4th service agreement thereby making it permissible for applicant to reflect increased costs of imported supply to be incurred by applicant as a result of (1) an increase in rates to be paid by Westcoast Transmission Co. to its Canadian producers; (2) an incentive for Westcoast Transmission to deliver additional quantities of gas; and (3) carrying costs in connection with an advance payment program for Westcoast Transmission to acquire new reserves.
CP70-270	Nov. 1, 1973	Petition to amend application by authorizing construction and operation of one 1,068 hp gas turbine compressor in lieu of two such units.
CP74-46	Aug. 20, 1973	Application to construct and operate a liquified natural gas (LNG) plant, the sale for resale of vaporized LNG and modification of certain existing meter stations. The LNG plant will have a storage capacity of 1.2 billion cubic feet and vaporization withdrawal capacity of 150 million cubic feet per day.
CP74-90	Oct. 1, 1973	Application for authorization to construct and operate during calendar year 1974, facilities to take into its certificated mainline supplies of natural gas which will be purchased from producers.
CP74-158	Nov. 29, 1973	Application authorizing the construction and operation of a tap and meter facilities and the delivery of exchange natural gas to Utah Gas Service Co.

[1] By order issued Jan. 8, 1973, a temporary certificate was issued pending hearing.

[FR Doc.74-7462 Filed 4-2-74;8:45 am]

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[4] 45 FPC 252.

[Docket No. G-3721, *et al*]

GETTY OIL CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

MARCH 25, 1974

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 17, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-3721 D 3-13-74	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	Texas Eastern Transmission Corp., San Domingo, Ike, Karon, South Karon, West Cosden, Maley, Minoak, Holzmark-Wilcox, Henze, Warmsley, West George West, Cannan, and Sunset Fields, Live Oak, Bee, and De Witt Counties, Tex.	Nonproductive	[2]
CI61-630 D 3-13-74	The California Co., a division of Chevron Oil Co. (Operator) et al., 1111 Tulane Ave., New Orleans, La. 70112.	Texas Gas Transmission Corp., South Thornwell and North Hayes Fields, Calcasieu and Jefferson Davis Parishes, La.	Depleted	[2]
CI74-497 (CI66-651) B 3-8-74	Sun Oil Co., P.O. Box 2880, Dallas, Tex. 75221.	Natural Gas Pipeline Co. of America, South Taloga Field, Dewey County, Okla.	Depleted	[2]
CI74-499 (CS66-107) B 3-8-74	Jake L. Hamon, P.O. Box 663, Dallas, Tex. 75221.	Lone Star Gas Co., Penn Griffith/Pettit Field, Rusk County, Tex.	Depleted	[2]
CI74-500 (CS66-107) B 3-8-74	Jake L. Hamon (Operator) et al.	El Paso Natural Gas Co., Sprayberry Trend Field Area, Reagan County, Tex.	Wells plugged and abandoned	[2]
CI74-501 (CS66-107) B 3-8-74	Jake L. Hamon	South Texas Natural Gas Gathering Co., Kelsey Area, Brooks County, Tex.	Depleted	[2]
CI74-503 (CI69-840) B 3-11-74	Exchange Oil & Gas Corp., 16th Floor, 1010 Common St., New Orleans, La. 70112.	Southern Natural Gas Co., Diamond Field, Plaquemines Parish, La.	Depleted	[2]
CI74-505 A 3-11-74 [1]	Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79105.	Michigan Wisconsin Pipe Line Co., Northwest Quinlan (Chester Lime) Field, Woodward County, Okla.	[2] [3] 21.25	14.65
CI74-506 (CI67-1422) B 3-12-74	Sun Oil Co., P.O. Box 2880, Dallas, Tex. 75221.	Diamond Shamrock Corp., Crest (Des Moines) Field, Ochiltree County, Tex.	Depleted	[2]
CI74-507 (CI63-20) F 3-8-74	Curtis S. Green (successor to Exxon Corp.), P.O. Box 1383, Tulsa, Okla. 74101.	Arkansas Louisiana Gas Co., Red Oak Field, Latimer County, Okla.	17.27	14.65
CI74-509 A 3-8-74	Florida Gas Exploration Co. (Operator) et al., P.O. Box 44, Winter Park, Fla. 32789.	Florida Gas Transmission Co., Unknown Pass Field, Orleans Parish, La.	[2] [4] 30.0	15.025

[1] Applicant proposes to cover its own interest in the sale of natural gas heretofore authorized to be made by Yucca Petroleum Co., now holder of a small producer certificate.
[2] Subject to upward and downward Btu adjustment.
[3] Applicant is willing to accept a certificate conditioned to the applicable area rate.
[4] Applicant is willing to accept a certificate conditioned in accordance with Opinion No. 598.

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

[FR Doc.74-7473 Filed 4-2-74;8:45 am]

[Docket No. CI67-92, etc.]

UNION OIL CO. OF CALIFORNIA

Findings and Order

MARCH 26, 1974.

Each Applicant herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions to amend.

Applicants have filed FPC gas rate schedules or supplements to rate schedules on file with the Commission and propose to initiate, add or continue in part natural gas service in interstate commerce as indicated in the tabulation herein.

After due notice by publication in the FEDERAL REGISTER, no petitions to intervene, notices of intervention, or protests to the granting of the applications and petitions have been filed.

At a hearing held on March 19, 1974, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions, as amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission.

(2) The sales of natural gas hereinbefore described, as more fully described

in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by Applicants together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sales of natural gas by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity; and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in various dockets involved herein should be amended as hereinafter ordered.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing as hereinafter ordered.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by Applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against Applicants. Further, our action in this proceeding shall not foreclose or prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificates aforesaid for service to the particular customers involved does not imply approval of all of the terms of the contracts, particularly as to the cessation of the service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The orders issuing certificates of public convenience and necessity in various dockets are amended by adding thereto authorization to sell natural gas or by substituting successors in interest as certificate holders as more fully described in the applications and in the tabulation herein. In all other respects said orders shall remain in full force and effect.

(E) Orders issuing certificates in the following dockets are amended by deleting therefrom authorization to sell gas where said sales are authorized to be continued under new certificates herein:

New Certificate Docket No.	*Amended Certificate Docket No.*
CI73-778	CI64-921
CI74-306	CI70-1

(F) Within 90 days from the date of this order, Applicant in Docket No. CI74-165 shall file three copies of a rate schedule-quality statement in the form prescribed in Opinion No. 586.

(G) The certificate and certificate authorization granted in Docket Nos. CI67-92 and CI74-165 are subject to the Commission's findings and orders accompanying Opinion Nos. 586, 586-A, 598 and 598-A, as applicable. If the quality of the gas deviates at any time from the quality standards set forth in the regulations under the Natural Gas Act so as to require a downward adjustment of the existing rates, notices of changes in rate shall be filed pursuant to Section 4 of the Natural Gas Act; provided, however, that adjustments reflecting changes in Btu content of the gas shall be computed by the applicable formula and charged without the filing of notices of changes in rate.

(H) The rate schedules and rate schedule supplements related to the authorizations granted herein are accepted for filing, all as set forth in the tabulation herein. Where the effective date is the date of initial delivery, Applicant shall advise the Commission of said date within 10 days thereof.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule		
			Description and date of document [1]	No.	Supp.
CI67-92 C 9-17-73 [2]	Union Oil Co. of California.	Columbia Gas Transmission Corp., Sweet Lake Field, Cameron Parish, La.	Amendment 8-20-73	168	6
CI73-175 C 7-16-73	Amaco Production Co.	El Paso Natural Gas Co., Basin Dakota Field, Rio Arriba County, N. Mex.	Supplemental agreement 2-12-73.	594	3
			Effective date: Date of initial delivery).		
CI73-778 F 5-7-73 [3]	Kenneth D. Luff (successor to Champlin Petroleum Co.).	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Patrick Draw Area, Sweetwater County, Wyo.	Contract 11-27-63	5	
			Amendatory agreement 10-23-64.	5	1
			Farmout agreement 10-19-72.	5	2
			Letter agreement 12-15-72	5	3
			Amendatory agreement 1-11-73.	5	4
			Lease agreement 4-13-73 [4]	5	5
CI73-923 A 6-25-73	Skelly Oil Co	El Paso Natural Gas Co., Ignacio Blanco Field, La Plata County, Colo.	Contract 6-6-73	271	
CI74-165 F 7-13-73	Sun Oil Co. (successor to Anchor Production Co.).	Panhandle Eastern Pipe Line Co., Northwest Avard Field, Woods County, Okla.	Agreement 7-13-64	525	
			Contract 5-27-64	525	1
			Assignment 5-8-73 [5]	525	2
			(Effective date: 5-1-73)		
CI74-214 F 10-2-73	CRA, Inc. (successor to Darenco, Inc.).	Montana-Dakota Utilities Co., Joe Creek Field, [6] Campbell County, Wyo.	Ratification 9-14-73	55	
			Contract 11-19-71	55	1
			Assignment 8-8-73 [7]	55	2
CI74-306 F 11-13-73	Phillips Petroleum Co. (successor to Davis Oil Co.).	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., East Rock Springs Field, Sweetwater County, Wyo.	Contract 6-25-69	538	
			Supplemental agreement 10-18-72.	538	1
			Letter agreement 11-9-72	538	2
			Supplemental agreement 6-27-73.	538	3
			Assignment 7-27-73. [8]	538	4
			(Effective date: Date of initial delivery from the previously unproductive acreage).		

[1] Where no effective date is shown, the rate schedule filing has heretofore been accepted.
[2] Adds acreage by eliminating depth limitation from the contract.
[3] As amended on June 7, 1973, July 5, 1973 and July 18, 1973.
[4] From Champlin Petroleum Co. to applicant.
[5] Conveys acreage from Anchor Production Co. to applicant.
[6] Residue gas to be delivered at the Joe Creek Gas Processing Plant.
[7] Conveys acreage from Darenco, Inc., to applicant.
[8] Conveys acreage from Davis Oil Co. to applicant.

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

[FR Doc.74-7463 Filed 4-2-74;8:45 am]

[Docket No. R-479]

FUEL ADJUSTMENT CLAUSES IN WHOLESALE RATE SCHEDULES

Notice of Public Hearing

MARCH 27, 1974.

Take notice that a public hearing for the purpose of receiving oral comments on proposed changes to Commission regulations § 35.14, Fuel Cost Adjustment Clauses, shall be held on April 16, 1974, at 10:00 a.m., e.d.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426.

The proposed changes were noticed on June 21, 1973, with written views and comments required to be submitted to the Commission by August 6, 1973. This due date was later extended to October 4, 1973. Comments were received from electric utilities, state commissions and other groups. The public hearing herein noticed is for the purpose of receiving further comments on the proposed change in the regulations. There will be a reporter at the meeting and all comments and responses will be part of the record in this rulemaking. Any interested person is invited to the hearing to present orally views, data or proposals relative to the proposed change.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-7593 Filed 4-2-74;8:45 am]

[Docket Nos. RP71-107 (Phase II) etc.]

NORTHERN NATURAL GAS CO.

Proposed Rate Change and Prescribing Procedures

MARCH 22, 1974.

On January 23, 1974, Northern Natural Gas Company (Northern) tendered for filing proposed revised tariff sheets[1] in purported compliance with the Commission's January 4, 1974, order which approved a settlement in these proceedings subject to certain conditions. The revised sheets, which have a proposed effective date of December 27, 1973, reflect reduced rate levels resulting from the settlement agreement as well as amounts reflecting the October 25, 1973, research and development (R&D) and advance payment tracking filing,[2] as that filing preliminary costs of locating new storage fields (.05¢ per Mcf) and to reflect elimination of the tracking of certain costs associated with the testing and development of the Dollar Center Underground Storage Project in Docket No. RP74-9 (.03¢ per Mcf). The filing was noticed on January 23, 1974.

We note that Northern's October 25, 1973, tracking filing covering advance payments contains Canadian advances amounting to $5,842,004.[3] In Texas Eastern Transmission Corporation, Opinion Nos. 672 and 672-A, in Docket No. RP70-29, et al. and Michigan Wisconsin Pipe Line Company, Opinion No. 685 in Docket No. RP71-112, the Commission indicated that it would not permit Canadian advances in a pipeline's rate base unless the pipeline could give adequate assurances that either gas or other economic benefits would inure to the benefit of the pipeline's customers in the lower 48 states. Although we permitted certain Canadian advances in Northern's rate base in the January 4, 1974, order approving the settlement agreement, we also noted that we were reserving the right to review these Canadian advances, in future proceedings (Mimeo, p. 8). Moreover, in Ordering Paragraph K, we reserved the right to review all future advances made pursuant to Northern's advance payment tracking provision. Upon review of Northern's Canadian advances in the October 25, 1973, tracking filing, we find that they have not been shown to meet the standards for Canadian advances set forth in Texas Eastern, supra and Michigan Wisconsin, supra.

The October 25, 1973, tracking filing also contains $9,108,641 of Alaskan advances made to BP-Alaska, Inc.[4] Our review of these amounts indicates that they have not been shown to be reasonable and appropriate in that they may be in excess of costs for exploration, development and production incurred by the producer within a reasonable time from the date such amounts advanced are included in Northern's rate base.[5]

The tracking filing contains domestic advances subject to Order No. 465 for which no agreements have been filed pursuant to that order.[6] Accordingly, we are unable to review these amounts to determine whether they conform to Order No. 465's provisions, including the requirement that advances be reasonable and appropriate.

Finally the tracking filing contains advances subject to Order No. 465 which have not been shown to be consistent with that order's pronouncement that "in considering rate base treatment for advances, the Commission will consider whether or not a sufficient portion of the reserves found or expected to be found as a result of the advance is dedicated to the pipeline making such advance." (mimeo, p. 8) [7]

For the reasons set forth above, the advances included in Northern's tracking filing which are set forth in Appendix A shall be accepted for filing, suspended for one day and permitted to become effective, subject to refund, as of December 28, 1973. Moreover, we shall provide that the issues raised by these parts of the tracking filing be developed in an evidentiary proceeding. Moreover, we shall re-docket this proceeding as Docket No. RP74-75 in order to distinguish it from the proceeding involving the "reserved issues" which was instituted by our January 4, 1974, order approving the rate settlement agreement with conditions.

Our review of the remainder of the January 23, 1974, filing indicates that it is justified. Accordingly, we shall permit that part of the filing to become effective on December 27, 1973, as proposed.

The Commission finds. It is necessary and appropriate in the public interest and to aid in the enforcement of Natural Gas Act that:

(1) The part of Northern's October 25, 1973, tracking filing reflected in the January 23, 1974, filing which is set forth in Appendix A to this order be accepted for filing, suspended for one day until December 28, 1973, and set for hearing as hereinafter ordered and conditioned.

(2) The remainder of the January 23, 1973, filing exclusive of the amounts described in Paragraph (1) above, be accepted for filing and made effective December 27, 1973, as proposed.

(3) The 60 day notice requirement for tracking filings set forth in the settlement approved by our January 4, 1974 order be waived to permit the aforementioned effective dates.

The Commission orders. (A) The part of Northern's January 23, 1974, filing not set forth in Appendix A hereto and Ordering Paragraph (B) below, is accepted for filing and made effective December 27, 1973, as proposed.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, 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 23, 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. A hearing for the purposes of cross-examination concerning the lawfulness and reasonableness of the rates and charges in Northern's January 23, 1974, filing associated with the amounts set for in Appendix A hereto shall commence immediately following the prehearing conference.

(C) On or before May 6, 1974, Northern shall serve its prepared testimony and exhibits. The Commission Staff shall serve its prepared evidence on or before June 10, 1974. Any intervenor evidence will be filed on or before June 24, 1974. Any rebuttal evidence by Northern will be filed on or before July 8, 1974.

(E) Pending hearing and a decision thereon, the parts of Northern filing set for hearing above are accepted for filing, suspended for one day and the use thereof deferred until December 28, 1973.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose

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[1] Fourth Revised Sheet No. 4a and Second Revised Sheet No. 59 to Third Revised Volume No. 1; First Revised Sheet No. 1c.

[2] By letter order dated December 11, 1973, the Commission indicated that no filing date would be assigned to the filing pending Commission action on the settlement agreement. was modified to reflect elimination of the

[3] See Appendix A, Section I.

[4] See Appendix A, Section II.

[5] Trunkline Gas Company, Docket No. RP 72-23, *et al.* issued January 31, 1974.

[6] Appendix A, Section III.

[7] Appendix A, Section IV.

(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.

(G) This proceeding is hereby redocketed as Docket No. RP74-75.

(H) Northern shall file substitute tariff sheets which reflect the inclusion of that portion of the instant increase not subject to suspension or refund to be effective on December 27, 1973.

(I) The 60 day notice provision for tracking filings set forth in the settlement agreement approved by our January 4, 1974, order is waived.

(J) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

ADVANCES SET FOR HEARING

I. Canadian Advances:	
(a) Elf Oil	$333,000
(b) Panarctic	5,509,004
	5,842,004
II. Alaskan Advances:	
BP—Alaska, Inc	$9,108,641
III. Advances Without Filed Agreements	
(a) Zoller & Danneberg (Mar. 2, 1973)	$38,376
(b) Ray Sandler, Esq. (Feb. 12, (1973)	100,000
(c) Zoller & Danneberg (Riddell) Mar. 23, 1973)	16,547
(d) Zoller & Danneberg (July 9, 1973)	36,320
(e) Dyco Petroleum (Apr. 23, 1973)	7,000
(f) John E. Johannsen (July 2, 1973)	96
(g) F. Helen Williams (Aug. 13, 1973)	96
	$198,435
IV. Advances Without Adequate Commitment Provisions	
(a) Kimball Production Co. (Apr. 16, 1973)	$750,000
(b) Dyco Petroleum (Mar. 21, 1973)	73,000
(c) Dyco Petroleum (Apr. 26, 1973)	28,000
(d) McCulloch Oil (Feb. 23, 1973)	80,000
(e) Hoover & Bracken (Sept. 24, 1973)	473,000
	1,404,000

[FR Doc.74-7460 Filed 4-2-74;8:45 am]

[Docket No. E-8052]

SOUTH CAROLINA ELECTRIC AND GAS CO.

Order Approving Settlement Agreements

MARCH 25, 1974.

On February 28, 1973, South Carolina Electric Gas Company (Company) filed a proposed FPC Electric Tariff Original Volume No. 1 to supersede various rate schedules. The filing was completed on April 17, 1973. The proposed changes would increase the rates to three municipal customers by $776,572 (27.5 percent) and to five cooperative customers by $157,659 (24.8 percent) based on a test period ended December 31, 1972. By its order issued May 15, 1973, the Commission required the Company to file a complete updated cost of service for the 1972 calendar year, suspended the proposed tariff until May 18, 1973, and set the matter for hearing. On August 20, 1973, the Commission staff filed in lieu of evidence a statement of position that the rates, charges, and conditions proposed by the Company are not excessive.

On August 17, 1973, the Company filed settlement agreements with Saluda River Electric Cooperative, Inc. (Saluda)[1] and, by letter dated October 1, 1973, with the City of Orangeburg (Orangeburg). The settlement agreements, applicable to all of the Company's wholesale customers, accept the Company's proposed rates to be effective August 13, 1973.

In addition, the settlements provide for the following: (1) A reduction of the ratchet percentage from 80 percent to 70 percent for both the billing demand and the minimum demand; (2) the incorporation of various changes in contract terms and conditions; (3) a reduction in the SR-2 rate, which is applicable for such resale service with demands of 2000 KW or greater, upon a corresponding reduction of the Large Industrial Rate No. 23 by the South Carolina Public Service Commission in Docket No. 16, 824; and (4) the future modification of the Company's fuel adjustment clause to automatically reflect changes in efficiency.

Public notices of the filing of the settlement agreements were issued on August 27, 1973, and October 11, 1973, with comments due on or before September 19, 1973 and November 5, 1973, respectively. On September 19, 1973, the Commission staff filed its comments recommending that the settlement filed August 17 be adopted. By letter dated October 5, 1973, the Town of Winnsboro accepted the terms of both settlement agreements.

Based on our review of the record in this proceeding, including the filings made by the Company, the settlement agreements, and attached summary cost of service[2] and the comments of the parties, we find that the rates and other terms and provisions of the settlement contract are reasonable and that the settlement contract represents a reasonable resolution of the issues in this proceeding in the public interest and accordingly should be approved.

The Commission finds. Approval as hereinafter ordered of the settlement in this proceeding on the basis of the agreements filed on August 17, 1973 and October 1, 1973, is just and reasonable and in the public interest in carrying out the provisions of the Federal Power Act.

The Commission orders. (A) The settlement agreements filed herein on August 17, 1973 and October 1, 1973, are hereby approved.

(B) Within 30 days from the date of this order, the Company shall file revised tariffs and rate schedules to conform with the Commission's regulations and the settlement agreements filed on August 17, 1973, and October 1, 1973. Such revised tariffs and rate schedules to be effective pursuant to the terms and conditions of the settlement.

(C) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against the Company or any other person or party.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[1] Saluda is empowered to act as agent for its members which include Berkeley Electric Cooperative, Inc., Broad River Electric Cooperative, Inc., Little River Electric Cooperative, Inc., and three other cooperatives not served by the Company.

[2] See Attachment.

South Carolina Electric & Gas Co.—sales to wholesale for resale rate groups

[Test period—12 months ended Dec. 31, 1972]

	Wholesale for resale cost-revenue			
	Municipals	Cooperatives	Total	Source [1]
Proposed sales revenues [2]	3,600,909	793,206	4,394,115	M-1, M-13
Other electric revenues	3,741	1,063	4,804	M-13
Total revenues	3,604,650	794,269	4,398,919	
Operation and maintenance expense	1,920,756	390,487	2,311,243	M-1
Depreciation expense	442,765	98,526	541,291	M-1
Taxes other than income	441,836	96,067	537,903	M-1
Income taxes:				
State	14,658	5,082	19,740	M-1
Federal, Deferred (net), Investment tax credit (net)	90,783	33,960	124,743	M-1
Total	2,910,789	624,082	3,534,880	M-1
Net available return	693,852	170,187	864,039	M-1
Rate base	13,153,431	2,968,365	16,121,796	M-1
Rate of return (percent)	5.28	5.73	5.36	M-1

[1] Source: Docket No. E-8052, volume IV, 1972 Cost of Service Presentation, statement M.
[2] Includes revenues under the proposed fuel adjustment clause.

[FR Doc.74-7458 Filed 4-2-7;8:45 am]

[Docket No. RP71-122]

ARKANSAS LOUISIANA GAS CO.

Order Providing For Hearing and Prescribing Procedures

MARCH 27, 1974.

On January 4, 1974, and February 21, 1974, Mississippi River Transmission Corporation (MRT), and Cities Service Gas Company (Cities), respectively filed motions in the instant docket requesting the Commission to direct Arkansas Louisiana Gas Company, (Arkla) to properly classify its deliveries to them in accordance with the end use criteria enumerated by the Commission in Opinion No. 643. Cities specifically requested a hearing on the matter, and pursuant to ordering paragraph (C) in Opinion No. 643, we will order such a hearing.[1]

On March 7, 1974, the Commission issued an order accepting tariff sheets for filing and granting limited rehearing in which the tariff sheets filed by Arkla on February 5, 1974, in the instant docket reflecting their currently effective curtailment plan were accepted for filing. The filed motions herein do not relate to the form of the curtailment plan per se but reflect the movants' dissatisfaction with the implementation of the plan. Therefore, the hearing we will order should be confined to the issues contemplated by ordering paragraph (C) of Opinion No. 643, namely, implementation and classification questions resulting from Arkla's currently effective plan. In addition, the hearing will not be limited to cognizance of the motions of MRT and Cities but will be held to determine the proper implementation of Arkla's deliveries to Cities, MRT, and any other Arkla customer who has intervened in the present docket or who is granted intervention following notice hereof.

On February 22, 1974, a petition to intervene was tendered by Arkansas Electric Cooperative Corporation (Arkansas Electric) alleging sufficient interest in the proceedings in the instant docket because of its status as a customer of Arkla.

The Commission finds. (1) It is in the public interest to order a hearing concerning the implementation of Arkla's currently effective curtailment plan in which Cities, MRT, and any other Arkla customer who has intervened herein or will intervene following notice hereof may present evidence directed toward determining the specific volumes to which they are entitled in times of curtailment based upon end use in accordance with the directives of Opinion Nos. 643, 643-A, and 643-B.

The Commission orders. (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the the Natural Gas Act (18 CFR, Chapter 1), a public hearing shall be held commencing June 4, 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 implementation of Arkla's currently effective curtailment plan in accordance with the provisions of Opinion Nos. 643, 643-A, 643-B.

(B) On or before May 14, 1974, MRT, Cities and Arkla shall file and serve their testimony and exhibits comprising their cases-in-chief upon all parties to this proceeding including Commission Staff.

(C) An Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose, [see delegation of authority (18 CFR 3.5(d)], shall preside at the hearings in this proceeding and shall prescribe relevant procedural matters not herein provided.

(D) The petitioner hereinabove set forth is permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petition to intervene, and, *Provided, further,* That the admission of said intervenor shall not be construed or recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-7597 Filed 4-2-74;8:45 am]

[1] Paragraph (C) states: (C) This docket shall remain open for the purpose of determining the specific volumes to which Arkla's customers, both direct and resale, are entitled in times of curtailment based upon end use in accordance with this opinion and order, and for the purpose of determining the necessity for individualized treatment of the gas needs of any customer because of particular environmental problems or other reasons.

[Docket No. E-8676]

DETROIT EDISON CO.

Modification of Agreement

MARCH 27, 1974.

Take notice that on March 14, 1974, Detroit Edison Company (Detroit) tendered for filing modification to Supplement S. Revision 1, dated October 1, 1973, to the interconnection agreement between Detroit and Consumers Power Company and the Hydro-Electric Power Commission of Ontario, dated May 23, 1969, and designated as Detroit's FPC Rate Schedule No. 13. Detroit states that the modification changes the minimum charge for Supplemental Energy from 8 mills per Kwh to a value commensurate with the current price for Economy Energy.

Detroit requests an effective date of December 31, 1973, for said modification.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-7598 Filed 4-2-74;8:45 am]

[Docket No. RM74-14]

FERTILIZER INDUSTRY

Natural Gas Supply Priority, Senate Resolution and Request for Comments; Correction

MARCH 21, 1974.

In the notice of Senate Resolution and request for comments, issued March 20, 1974, and published in the FEDERAL REGISTER March 25, 1974, 39 FR Page 11137, footnote 8 should read as follows:

8 *"Process Gas:* Is defined as gas use for which alternate fuels are not technically feasible such as in applications requiring precise temperature controls and precise flame characteristics. For the purposes of this definition propane and other gaseous fuels shall not be considered alternate fuels." Ibid.

Page 11138, Paragraph 3, Line 12 change "could not" to "cannot".

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-7595 Filed 4-2-74;8:45 am]

[Docket No. ID-1725]

LOKEY, RUTH VINCENT

Notice of Application

MARCH 27, 1974.

Take notice that on March 20, 1974, Ruth Vincent Lokey (Applicant), filed an initial application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Secretary, Delmarva Power and Light Company of Maryland, Public Utility.
Secretary, Delmarva Power and Light Company of Virginia, Public Utility.

Delmarva Power and Light Company of Maryland is engaged in the generation, transmission and distribution of electrical energy within the nine (9) counties comprising the so-called "Eastern Shore of Maryland." Company owns and operates transmission lines connecting with similar transmission lines of Delmarva Power and Light Company of Virginia.

Delmarva Power and Light Company of Virginia is engaged in the generation, transmission and distribution of electrical energy in Accomack and Northampton Counties, comprising the so-called "Eastern shore of Virginia." Company owns and operates transmission lines connecting with similar transmission lines of Delmarva Power and Light Company of Maryland.

Any person desiring to be heard or to

make any protest with reference to said application should on or before April 26, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become a party to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-7601 Filed 4-2-74;8:45 am]

[Docket Nos. CP72-146 and CP72-278]

MICHIGAN CONSOLIDATED GAS CO.

Application for Declaration of Continued Exemption

MARCH 28, 1974.

Take notice that on March 11, 1974, Michigan Consolidated Gas Company (Consolidated), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket Nos. CP72-146 and CP72-278 an application pursuant to section 1(c) of the Natural Gas Act and § 152.5 of the Commission's regulations thereunder (18 CFR 152.5) for continuance of Consolidated's exemption from the provisions of said Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

By declaration of continued exemption issued by the Commission July 12, 1972, in Docket No. CP72-146 (48 FPC 63), Consolidated was declared exempt from the provisions of the Natural Gas Act in respect to a short-term natural gas storage service which it was to provide for Northern Indiana Public Service (Nipsco). By application filed February 22, 1974, in Docket No. CP74-213 Michigan Wisconsin Pipe Line Company (Mich Wisc) is proposing, among other things, a one year extension, to March 1, 1975, of the existing arrangement pursuant to which Mich Wisc delivers gas to Consolidated for the account of Nipsco for storage by Consolidated during the storage injection cycle and redelivers equivalent volumes from Consolidated to Nipsco during the storage withdrawal cycle. Incident to such proposal, Consolidated and Mich Wisc have amended the agreement between them pursuant to which Consolidated stores such gas for Nipsco to provide for a similar one year extension of such storage service for which Consolidated herein requests modification of the subject July 12, 1972, declaration of exemption to continue Consolidated's exemption for a further period of one year.

Consolidated states further that by order issued October 12, 1972, as amended (48 FPC 661), the Commission in Docket No. CP72-278 provided that Consolidated would continue its exempt status under section 1(c) of the Natural Gas Act and excused Consolidated from the Commission's accounting and reporting requirements with respect to a short term natural gas storage service which Mich Wisc arranged for Consolidated to provide for Northern Natural Gas Company (Northern) and Natural Gas Pipeline Company of America (Natural). Mich Wisc in its application in Docket No. CP74-213 proposes a similar one year extension, to March 1, 1975, of this existing arrangement pursuant to which Mich Wisc delivers gas to Consolidated for the account of Northern and Natural for storage by Consolidated during the storage injection cycle and redelivers equivalent volumes from Consolidated to Northern and Natural during the storage withdrawal cycle. Consolidated and Mich Wisc have, incident to this proposal, amended their agreement covering the receipt and storage of this gas to provide for a similar one year extension for which Consolidated herein requests modification of the above order of October 12, 1972, to continue its exemption for a further period of one year.

In Docket No. CP74-278 Mich Wisc proposed to provide a one year transportation service for The Peoples Gas Light and Coke Company (Peoples) and related storage service by Consolidated similar to such storage service presently provided for Nipsco. Consolidated herein requests exemption under section 1(c) of the Natural Gas Act with respect to this proposed one year storage service for Peoples pursuant to which Peoples will cause 6,000,000 Mcf of natural gas to be delivered to Mich Wisc during the period March 1 through October 31, 1974, and which Mich Wisc will transport and deliver to Consolidated for storage and redeliver an equivalent volume to Peoples during the period November 1, 1974, through January 31, 1975.

Consolidated states that it has unallocated storage service capacity available on its system the use of which will allow Nipsco, Northern, Natural and Peoples to convert available offpeak gas supplies to high end use winter seasonal markets.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 22, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-7599 Filed 4-2-74;8:45 am]

[Docket No. E-7690]

NEPOOL POWER POOL AGREEMENT

Extension of Time and Postponement of Hearing; Correction

MARCH 26, 1974.

In the notice of extension of time and postponement of hearing, issued March 13, 1974, and published in the FEDERAL REGISTER March 20, 1974, 39 FR 10488.

Add after Direct Testimony by Staff April 23, 1974:

Prehearing Conference May 7, 1974 (10:00 a.m. e.d.t.).

Hearing Commences upon completion of Prehearing Conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-7600 Filed 4-2-74;8:45 am]

[Project No. 1103]

SOUTHERN CALIFORNIA EDISON CO.

Application for Surrender or Transmission Line License

MARCH 27, 1974.

Public notice is hereby given that application for surrender of transmission line license was filed January 25, 1974, under the Federal Power Act (16 U.S.C. 791a-825r) by Southern California Edison Company (Correspondence to: Mr. Robert N. Coe, Vice President, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770; Copies to: Mr. P. B. Peecook, Manager, Right-of-way and Land Department, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770) for its Waterman Canyon-City Creek Electric Transmission Line License Project No. 1103, located in San Bernardino County, California, and affecting lands of the United States within San Bernardino National Forest.

The project consists of a transmission line, approximately 11.4 miles long, on wooden poles and cross arms and supporting copper wires. Licensee stated that the subject transmission line is presently covered by a 10 year special use permit issued by the United States Forest Service of the Department of Agriculture on December 14, 1973.

Any person desiring to be heard or to make protest with reference to said application should on or before May 20, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on

file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-7602 Filed 4-2-74;8:45 am]

[Docket No. E-8158]

WISCONSIN POWER & LIGHT CO.

Further Extension of Time and Postponement of Prehearing Conference and Hearing

MARCH 27, 1974.

On March 25, 1974, Commission staff counsel filed a motion for a further extension of the procedural dates fixed by notice issued February 14, 1974, in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above-designated matter are further modified as follows:

Service of evidence by Staff, May 29, 1974.
Service of Intervener evidence, June 14, 1974.
Service of Company Rebuttal, July 3, 1974.
Prehearing Conference, July 16, 1974 (10:00 a.m., e.d.t.).
Hearing, July 17, 1974 (10:00 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-7603 Filed 4-2-74;8:45 am]

FEDERAL RESERVE SYSTEM

ALABAMA BANCORPORATION

Order Approving Acquisition of Bank

Alabama Bancorporation, Birmingham, Alabama, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the successor by merger to The City National Bank of Selma, Selma, Alabama ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest bank holding company in Alabama, controls ten banks with aggregate deposits of approximately $1.1 billion representing approximately 16 percent of total commercial bank deposits in the State.[1] The proposed acquisition of Bank would not significantly increase Applicant's share of total commercial bank deposits in the State.

Bank, the third largest of five banking organizations in the relevant banking market,[2] controls total commercial bank deposits of $29.4 million, representing approximately 24 percent of total market deposits. The three largest banking organizations in the relevant market control in the aggregate approximately 84 percent of deposits in the market.

Since Applicant is not presently represented in the market, and its closest subsidiary bank is located 50 miles from Bank, no meaningful competition between Bank and Applicant's subsidiary banks would be eliminated as a result of the proposed acquisition. The acquisition of Bank by the State's largest bank holding company may tend to lessen slightly future competition in the State, however, as Bank is the tenth largest bank in Alabama that is not now an existing or approved subsidiary of a bank holding company. Accordingly, the Board finds that consummation of the proposal would have a slightly adverse effect on future competition in the State.

The financial and managerial resources and future prospects of Applicant, its subsidiaries, and Bank are satisfactory in view of Applicant's recent injection of additional equity capital into one of its existing subsidiary banks. There is no evidence that the banking needs of the community to be served are not being adequately met. Nevertheless, as an affiliate of Applicant, Bank will be able to offer FHA and VA mortgage loans through the mortgage company subsidiary of Applicant's lead bank. In addition, Applicant will help Bank expand corporate and trust services as well as assist Bank in underwriting municipal bond issues and purchasing industrial development bonds. Thus, consummation of the proposed transaction would provide an additional competitive alternative for these services. Considerations relating to the convenience and needs of the community to be served, therefore, lend weight toward approval of the application. It is the Board's judgment that any anticompetitive effects of the proposed transactions are outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors[3] effective March 22, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-7585 Filed 4-2-74;8:45 am]

COLORADO NATIONAL BANKSHARES, INC.

Order Approving Acquisition of Banks

Colorado National Bankshares, Inc., Denver, Colorado, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Golden State Bank, Golden, Colorado ("Golden Bank") and 80 percent or more of the voting shares of First National Bank of Evergreen, Evergreen, Colorado. ("Evergreen Bank").

Notice of the applications affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the applications in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fifth largest banking organization in Colorado, controls nine banks with aggregate deposits of $515.4 million,[1] representing 8.46 percent of the total deposits held by commercial banks in the State. Acquisition of Golden Bank (deposits of $12.7 million) and Evergreen Bank (deposits of $15.1 million) would increase Applicant's share of State deposits to 8.84 percent, and Applicant would thereby become the fourth largest banking organization in the State. Thus, acquisition of subject banks would slightly increase the concentration of banking resources in the State of Colorado.

Evergreen Bank and Golden Bank are located in the Denver banking market,[2] where Applicant controls 6 banks representing 13.6 percent of total market deposits and is the third largest banking organization in the market, based on market deposits. Evergreen Bank and Golden Bank hold approximately 0.4 and 0.3 percent of total market deposits and rank 43rd and 46th, respectively, among 68 banks represented in the market. All eight multibank holding companies in Colorado control banks in the relevant market, and the two largest bank holding companies combined control 39 percent of total market deposits. It does not

[1] All banking data are as of June 30, 1973 and reflect bank holding company formations and acquisitions approved by the Board through December 31, 1973, unless otherwise noted.

[2] Approximated by Dallas County.

[3] Voting for this action: Chairman Burns and Governors Brimmer, Sheehan, Bucher, Holland and Wallich. Absent and not voting: Governor Mitchell.

[1] All banking data are as of June 30, 1973, and reflect bank holding company formations and acquisitions approved by the Board through February 28, 1974.

[2] The Denver banking market is approximated by Adams, Arapahoe, Denver, Jefferson Counties and the Broomfield area of Boulder County.

appear that any meaningful competition exists between Evergreen Bank and Golden Bank.

Applicant is not presently represented in the Evergreen area, which is 30 miles southwest of Denver and its banking subsidiary closest to Evergreen Bank is located 23 miles away. Nor is Applicant presently represented in Golden which is 15 miles west of Denver, although Applicant has a banking subsidiary located 10 miles distant from Golden Bank.

However, the service areas of Evergreen Bank and Golden Bank overlap slightly with the service areas of certain of Applicant's banking subsidiaries within the market. It appears that Applicant could and would expand into the Golden area by the establishment of a de novo bank, but that such entry would probably not be feasible for the Evergreen area. Consequently, some existing and future competition would be eliminated by consummation of the proposals. The Board, concludes, therefore, that approval of these applications would have a slightly adverse effect on competition in the relevant market.

The financial and managerial resources and future prospects of Applicant, its subsidiaries, Evergreen Bank and Golden Bank are regarded as generally satisfactory in view of Applicant's commitment to inject equity capital into Golden Bank and maintain the capital of its other subsidiaries at acceptable levels. Thus, financial considerations favor approval of the proposal.

Although there is no evidence in the record to indicate that the major banking needs of the residents of Evergreen or Golden are not currently being met, affiliation with Applicant should provide both banks with financial strength and added depth of management. In particular, Applicant proposes to increase the lending capacities of both banks, as well as to provide each with credit analysis, investment advice, data processing and specialized lending expertise; establish trust services at Evergreen Bank; and to maintain the capital adequacy of Golden Bank and to assist that bank in the construction of a new physical facility. These changes should enable both banks to expand the range of services presently offered to the residents of their respective communities. Therefore, considerations relating to the convenience and needs of the communities to be served lend weight toward approval of the proposed transactions. It is the Board's judgment that any anticompetitive effects of the proposed acquisitions are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the communities to be served.

On the basis of the record, the applications are approved for the reasons summarized above. The transactions shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[3] effective March 25, 1974.

[SEAL] CHESTER B. FELDBERG, *Secretary of the Board.*

[FR Doc.74-7581 Filed 4-2-74;8:45 am]

FIRST ABILENE BANKSHARES, INC.

Order Approving Acquisition of Bank

First Abilene Bankshares, Inc., Abilene, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire an additional 47.5 percent or more of the voting shares of Bank of Commerce, Abilene, Texas ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Bank is presently a subsidiary of Applicant. In 1968 approximately 28.6 percent of the voting shares of Bank were purchased by Applicant's corporate predecessor, F & M Operating Company ("F&M"). In 1973 an additional 3.9 percent of the voting shares of Bank were indirectly acquired by F&M as an incident to its acquisition of the successor by merger to First National Bank of Abilene, Abilene, Texas ("First National").[1]

Applicant, the thirty-third largest banking organization in Texas, controls three banks (including Bank) with deposits of $119.3 million, representing .3 percent of aggregate deposits of commercial banks in the State.[2] Due to the fact that Applicant already controls Bank, consummation of the proposal would not increase the concentration of banking resources in any relevant area.

Bank ($15.3 million in deposits) is the fourth largest of fifteen banks in the Abilene SMSA banking market (the relevant market), and holds approximately 4.5 percent of commercial bank deposits in the market. Applicant's lead bank, First National (deposits of $86.3 million) is the largest bank in the market with almost 26 percent of total commercial bank deposits in the market. Applicant's acquisition of the additional shares of Bank would have no significant effect on competition in any relevant area and would serve only to reinforce Applicant's previously existing control of Bank.

Considerations relating to the financial and managerial resources and future prospects of Applicant and its subsidiaries (including Bank) are consistent with approval of the application as are considerations relating to the convenience and needs of the community to be served. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[3] effective March 22, 1974.

[SEAL] CHESTER B. FELDBERG, *Secretary of the Board.*

[FR Doc.74-7584 Filed 4-2-74;8:45 am]

HAWKEYE BANCORPORATION

Order Approving Acquisition of Bank

Hawkeye Bancorporation, Des Moines, Iowa, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 50 percent or more of the voting shares of American State Bank, Mason City, Iowa.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fourth largest banking organization in Iowa, controls 13 banks with aggregate deposits of $293 million, which represent 3.4 percent of total deposits in commercial banks in the State.[1] Consummation of the proposed transaction would add 0.1 percentage points to Applicant's share of total commercial bank deposits in Iowa but would change Applicant's ranking among banking organizations in the State to third.

[3] Voting for this action: Chairman Burns and Governors Mitchell, Brimmer, Sheehan, Bucher, Holland and Wallich.

[1] The additional 3.9 percent of voting shares of Bank are held by First National's employees profit sharing trust and are deemed to be controlled by Applicant by virtue of section 2(g)(2) of the Act. See the Board's Order dated January 29, 1973, approving the application of F & M Operating Company, Abilene, Texas, to acquire the successor by merger to First National Bank of Abilene, Abilene, Texas.

[2] All banking data are as of June 30, 1973, and reflect holding company formations and acquisitions approved by the Board through January 31, 1974.

[3] Voting for this action: Chairman Burns and Governors Brimmer, Sheehan, Bucher, Holland and Wallich. Absent and not voting: Governor Mitchell.

[1] Unless otherwise indicated, banking data are as of June 30, 1973.

Bank (deposits of $8.5 million), fourth largest of 11 banks in the Mason City banking market (approximated by Mason City, Cerro Gordo County, and the towns of Manly, Nora Springs and Sheffield), controls 4.8 percent of total deposits in commercial banks in that market. Applicant has no subsidiary operating in the Mason City market or any banking market adjacent thereto. No meaningful competition exists between Bank and any of Applicant's present subsidiaries; nor does it appear likely that such competition will develop in the future, in view of the fact that Applicant's banking subsidiary nearest to Bank is located in Spencer, over 100 miles west of Mason City.[2]

The proposed acquisition would represent a foothold entry by Applicant into the Mason City banking market. Thus, it presents the favorable competitive effect of further effecting termination of Bank's affiliation with two other banks in the market with which, absent such affiliation, Bank would otherwise compete.[3] One of these affiliated banks is the second largest bank in the market and holds 27 percent of the deposits in the market.

The financial and managerial resources and future prospects of Applicant and its subsidiaries are generally satisfactory. Those of Bank should benefit from managerial and technical assistance that Applicant could provide, and financial and managerial considerations therefore lend weight toward approval. Considerations relating to the convenience and needs of the community are consistent with approval. It is the Board's judgment that consummation of the proposed transaction would be in the public interest, and that the application should be approved.

On the basis of the record, the application is approved for the reason summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[4] effective March 22, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-7582 Filed 4-2-74;8:45 am]

[2] This conclusion is not altered by the fact that one of Applicant's subsidiary banks has proposed to open an office in Holland, Iowa, approximately 80 miles south of Mason City.

[3] See Board's Order of October 12, 1973, Approving Acquisition of Two Banks and Acquisition of an Insurance Agency by Central National Bancshares, Des Moines, Iowa, 38 Fd. Reg. 29366.

[4] Voting for this action: Chairman Burns and Governors Brimmer, Sheehan, Bucher, Holland and Wallich. Absent and not voting: Governor Mitchell.

INTERMOUNTAIN BANCORP, INC.

Formation of Bank Holding Company

Intermountain Bancorp, Inc., Westminster, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of up to 100 percent of the voting shares of First National Bank, Westminster, Colorado. First Plaza Company, Lincoln, Nebraska, a bank holding company, proposes to change its direct ownership of shares of First National Bank to indirect ownership through Intermountain Bancorp, Inc., a proposed subsidiary of First Plaza Company. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than April 24, 1974.

Board of Governors of the Federal Reserve System, March 27, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-7591 Filed 4-2-74;8:45 am]

INTERMOUNTAIN BANCORP, INC.

Proposed Acquisition of Intermountain Mortgage Co.

Intermountain Bancorp, Inc., Westminster, Colorado, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Intermountain Mortgage Co., Westminster, Colorado. Notice of the application was published on December 6, 1973, in the Journal Sentinel, a newspaper circulated in Westminster, Colorado.

Applicant states that the proposed subsidiary would engage in the activities of making or acquiring for its own account or the account of others, loans and other extensions of credit for any person; and performing mortgage activities of a kind heretofore performed, and in the future to be performed, by First National Bank, Westminster, Colorado. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

First Plaza Company, Lincoln, Nebraska, a bank holding company, proposes to acquire shares of Intermountain Mortgage Co. indirectly through Intermountain Bancorp, Inc., a proposed subsidiary of First Plaza Company.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 24, 1974.

Board of Governors of the Federal Reserve System, March 27, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-7590 Filed 4-2-74;8:45 am]

INTERMOUNTAIN BANCORP, INC.

Proposed Acquisition of Intermountain Insurance, Inc.

Intermountain Bancorp, Inc., Westminster, Colorado, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Intermountain Insurance, Inc., Westminster, Colorado. Notice of the application was published on February 7, 1974, in the Journal Sentinel, a newspaper circulated in Westminster, Colorado.

Applicant states that the proposed subsidiary would engage in the activities of insurance agent or broker with respect to declining term credit life, and credit accident and health insurance sold in connection with consumer loans made by First National Bank, Westminster, Colorado; and general insurance for the holding company and subsidiaries. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

First Plaza Company, Lincoln, Nebraska, a bank holding company, proposes to acquire shares of Intermountain Insurance, Inc., indirectly through Intermountain Bancorp, Inc., a proposed subsidiary of First Plaza Company.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in effi-

ciency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 24, 1974.

Board of Governors of the Federal Reserve System, March 27, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-7588 Filed 4-2-74;8:45 am]

LANDMARK BANKING CORPORATION OF FLORIDA

Order Approving Acquisition of Willoughby Holin, Inc.

Landmark Banking Corporation of Florida, Fort Lauderdale, Florida, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of Willoughby Holin, Inc., Fort Lauderdale, Florida ("Company"), a company that engages in the activity of an investment counseling firm. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(5)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (39 FR 2807). The time for filing comments and views has expired, and none has been timely received.

Applicant is the eighth largest multibank holding company in Florida and controls 14 banks with aggregate deposits of $616 million, representing 3 percent of total deposits in commercial banks in the State.[1] Two of Applicant's subsidiaries, Union Trust National Bank of St. Petersburg, St. Petersburg ("Union Trust"), and First National Bank in Fort Lauderdale, Fort Lauderdale ("First National"), engage in investment advisory services through their respective trust departments, but such services comprise only a small percentage of their trust department revenues. First National derives 90 percent of its investment advisory business from a three-county area encompassing Dade, Broward and Palm Beach Counties wherein it manages an asset portfolio of approximately $11.2 million. Union Trust derives no investment advisory business from that three-county area; 80 percent of its investment advisory business is derived from Pinellas County.

Company was established as a partnership in 1971 and was incorporated under the laws of the State of Florida in 1972. While Company's one office is located in Fort Lauderdale, it derives business from Nebraska, Georgia, Michigan, Illinois, Pennsylvania, and Washington, D.C., as well as Florida. Company manages a portfolio having total assets of $2.2 million, of which only $570,000 is derived from Florida. Considering the nominal amount of assets in Florida which Company manages, 80 percent of which are derived from the Dade, Broward and Palm Beach County area and none of which are derived from Pinellas County, the amount of direct competition between Applicant and Company can only be regarded as minimal. Company has incurred losses in each of its three years of operation and is not a viable competitor to the many large investment advisory firms in the area. Thus, consummation of the proposed acquisition would not, in the Board's judgment, eliminate any significant existing competition nor have an adverse effect on competing investment advisory firms in any section of the country.

Applicant proposes to return Company's capitalization to a level acceptable to the Securities and Exchange Commission for investment advisory companies. Applicant also will provide computer processing and research support for Company, as well as offices which are more conveniently located. It is anticipated that such support will be of substantial benefit to the existing customers of Company and that customers of Applicant will be provided with improved investment counseling. It is the Board's judgment that consummation of the proposed transaction would bring positive benefits to the public and that such benefits outweigh any possible adverse competitive effects.

There is no evidence in the record that consummation of the proposed acquisition would lead to undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices, or other adverse effects.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta.

By order of the Board of Governors,[2] effective March 27, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-7587 Filed 4-2-74;8:45 am]

NATIONAL CENTRAL FINANCIAL CORP.

Proposed Acquisition of Hartzler Mortgage Company

National Central Financial Corporation, Lancaster, Pennsylvania, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Hartzler Mortgage Company, Columbus, Ohio. Notice of the application was published on February 26, 1974, in The Columbus Dispatch, a newspaper circulated in Columbus, Ohio, and on February 28, 1974, in the News Jounral, a newspaper circulated in Mansfield, Ohio.

Applicant states that the proposed subsidiary engages in the activities of originating, acquiring, packaging, selling, and servicing loans secured by residential real estate, and selling credit life and credit accident and health insurance to debtors under such extensions of credit. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Gov-

[1] Banking data are as of June 30, 1973 and reflect holding company acquisitions approved through February 28, 1974.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Brimmer, Sheehan, Bucher and Holland. Absent and not voting: Governor Wallich.

ernors of the Federal Reserve System, Washington, D.C. 20551, not later than April 24, 1974.

Board of Governors of the Federal Reserve System, March 27, 1974.

[SEAL] THEODORE E. ALLISON, *Assistant Secretary of the Board.*

[FR Doc.74-7589 Filed 4-2-74;8:45 am]

SOUTHEAST BANKING CORP.

Order Denying Acquisition of Bank

Southeast Banking Corporation, Miami, Florida, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of The First National Bank of Homestead, Homestead, Florida ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest bank holding company in Florida, controls 29 banks with aggregate deposits of approximately $1.8 billion, representing 8.6 percent of total deposits in commercial banks in Florida.[1] Acquisition of Bank would increase Applicant's share of State deposits by 0.16 percentage point and enable Applicant to strengthen its position as the State's largest banking organization.

Bank ($32.0 million in deposits) ranks 47th out of the 99 commercial banks located in the Greater Miami Banking Market (approximated by Dade County and the southern third of Broward County) and holds approximately 0.62 percent of the commercial bank deposits in that market. In that market Applicant is already by far the largest banking organization with seven subsidiary banks controlling 22.87 percent of the total market deposits. Acquisition of Bank would increase the concentration of banking resources in the relevant market since Applicant's share of market deposits would rise to 23.49 percent, thereby increasing the size disparity between Applicant and the second largest banking organization within the market which controls less than 9 percent of total market deposits.

In addition to effects of the proposal on banking concentration in the Miami market, the acquisition of Bank by Applicant would also eliminate existing competition and foreclose the development of significant potential competition in the relevant market. Bank is located in the southern extremity of Dade County, Florida, in the town of Homestead, approximately 30 miles from downtown Miami. Of its seven subsidiaries in the market, Applicant's closest subsidiary (Southeast Bank of Dadeland) is 19 miles from Bank, and Bank competes directly in an area served by Applicant's lead bank.[2] Applicant's banking subsidiaries derive approximately $1.0 million in deposits and $3.5 million in loans from the Homestead area; furthermore, Applicant's mortgage subsidiary (Southeast Mortgage Company) has outstanding loans of approximately $0.8 million in Homestead. Thus, consummation of this transaction would adversely affect existing competition within the market, especially within the Homestead area, and, as noted above, would solidify Applicant's substantial position within the market.

With respect to potential competition, approval of the proposal would remove Bank as a possible entry vehicle for a bank holding company not already represented in the area. Moreover, it appears that Applicant possesses adequate resources for de novo expansion in the Greater Miami Banking Market. Per capita deposits, population per banking office and income per banking office are higher than the respective State averages, making the market most attractive for de novo entry. Taken as a separate entity, the Homestead area enjoys a rapid growth rate which would make it suitable for such entry. Instead of removing a banking competitor and eliminating direct competition, the alternative of de novo entry would have the beneficial effect of increasing banking competition in the Homestead area through the introduction of a new banking alternative.

On the basis of the foregoing and the facts of record, the Board concludes that consummation of the proposal would have significant adverse effects on competition in the relevant market. Accordingly, competitive considerations require denial of this application unless the anticompetitive effects are clearly outweighed by benefits to the public in meeting the convenience and needs of the communities to be served.

The financial and managerial resources and future prospects of Applicant and its present subsidiary banks are regarded as satisfactory, particularly in view of Applicant's commitments to inject equity capital into certain of its subsidiary banks. The financial and managerial condition and future prospects of Bank are satisfactory. Therefore, the financial and managerial resources and future prospects of Applicant and Bank are regarded as being consistent with approval of the application, but do not lend significant weight for approval.

Although there is no evidence in the record that the major banking needs of the community are not adequately being served, Applicant proposes to expand the range of services presently offered by Bank. While such increased services might inure to the benefit of the public, such benefits are not exclusive to Applicant's proposal. The Board is thus unable to conclude that considerations relating to convenience and needs clearly outweigh the adverse competitive considerations inherent in the proposal.

On the basis of all relevant facts in the record, the Board concludes that approval of the proposed acquisition is not in the public interest, and the application is denied for the reasons summarized above.

By order of the Board of Governors,[3] effective March 22, 1974.

[SEAL] CHESTER B. FELDBERG, *Secretary of the Board.*

[FR Doc.74-7586 Filed 4-2-74;8:45 am]

[1] All banking data are as of June 30, 1973, and reflect bank holding company formations and acquisitions approved through January 31, 1974.

[2] First National Bank of Miami (the largest single bank within the market) alone has aggregate deposits of approximately $1 billion, representing 19.27 percent of the total deposits in commercial banks within the Greater Miami Banking Market.

[3] Voting for this action: Chairman Burns and Governors Brimmer, Sheehan, Bucher, Holland, and Wallich. Absent and not voting: Governor Mitchell.

SOUTHERN BANCORPORATION, INC.

Order Approving Acquisition of F&I Finance Company

Southern Bancorporation, Inc., Greenville, South Carolina, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire through its wholly-owned subsidiary, World Acceptance Corporation ("World"), all of the voting shares of F&I Finance Company, Inc., Sherman, Texas ("F&I"),[1] a company that engages in the activity of making extensions of credit of $100 or less to individuals as a licensed consumer finance lender under the Texas Consumer Credit Code. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (38 FR 34836). The time for filing comments and views has expired, and none has been timely received.

Applicant controls one bank located in Greenville, South Carolina, which holds total deposits of $118 million. F&I is a consumer finance company operating out of an office in Sherman, Texas, and has total assets of $44,000 (as of September 30, 1973). F&I's operations are limited to Grayson County, Texas, with 85 percent of the active accounts of F&I originating within a 10-mile radius of Sherman.

[1] On December 1, 1973, World acquired all of the assets of F&I relying upon the Federal Reserve Bank of Richmond's authorization, pursuant to § 265.2(f)(20)(i) of the Board's rules Regarding Delegation of Authority, of the establishment by Applicant of a *de novo* finance company office in Sherman, Texas. When informed that authorization for the acquisition of F&I was not granted, Applicant took immediate steps to divest itself of F&I.

World operates consumer finance offices in the States of South Carolina, Georgia, and Texas, but does not presently operate in Sherman, Texas. Accordingly, it does not appear that consummation of the proposal would eliminate any significant existing competition between Applicant and F&I. Nor would consummation of the proposal result in the foreclosure of significant potential competition. Further, no significant adverse competitive effects would appear to result from the proposed acquisition in view of the size of F&I. The Board concludes, therefore, that competitive considerations are consistent with approval of the application.

Applicant's greater financial resources and specialized services should enable it to better service the existing customers of F&I and provide them with continued local servicing on their loans. Furthermore, F&I's competitive strength should be increased so that it may be a more viable competitor. There is no evidence in the record indicating that consumation of the proposed acquisition would result in undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices or other adverse effects on the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Richmond.

By order of the Board of Governors,[2] effective March 25, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-7583 Filed 4-2-74;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 74-20]

AEROSPACE SAFETY ADVISORY PANEL

Meeting

In the matter of a meeting of Aerospace Safety Advisory Panel to be held April 12, 1974, at NASA HEADQUARTERS, Room 7002, Capacity—60, 400 Maryland Avenue, SW, Washington, D.C.

The Panel is to review safety studies and operations plans referred to it and shall make reports thereon, shall advise the Administrator with respect to the hazards of proposed or existing facilities and proposed operations and with respect to the adequacy of proposed or existing safety standards, and shall perform such other duties as the Administrator may request.

Pursuant to carrying out its statutory duties, the Panel will review, evaluate and advise on those program management policies, management systems, procedures and practices that contribute to risk identification and assessment by management. Priority shall be given to those programs that involve the safety of manned flight.

The Chairman of the Panel is Mr. Howard K. Nason. The other members are: Dr. Harold M. Agnew, Hon. Frank C. Di Luzio, Mr. Herbert E. Grier, Lt. Gen. Warren D. Johnson, USAF, Dr. Henry Reining, Jr., Dr. Ian M. Ross, and Mr. Lee R. Scherer.

The contact for further information is Carl R. Praktish, Executive Secretary, Aerospace Safety Advisory Panel, 400 Maryland Avenue, SW, Washington, D.C. 20546 (Phone: Area Code 202, 755-8436).

The panel will convene at 10:30 a.m. to discuss with the Administrator and Deputy Administrator a summary of its fact-finding activities and the resultant conclusions and recommendations on the Skylab, Apollo-Soyuz Test Project, and Space Shuttle programs. At that time the Panel will present its annual written report to the Administrator and Deputy Administrator for further detailed consideration. The Administrator and Deputy Administrator will then discuss with the Panel its future tasks. The meeting will continue as long as necessary to accomplish its purpose.

BOYD C. MYERS II,
Assistant Associate Administrator for Organization and Management, National Aeronautics and Space Administration.

MARCH 28, 1974.

[FR Doc.74-7633 Filed 4-2-74;8:45 am]

[Notice 74-19]

NASA LIFE SCIENCES COMMITTEE

Meeting

The NASA Life Sciences Committee will meet on April 25-26, 1974, at the Headquarters of the National Aeronautics and Space Administration, Washington, DC 20546. The meeting will be held in Room 425 of Federal Office Building 10B, 600 Independence Avenue, SW., Washington, DC 20546. Members of the Public will be admitted on a first come first served basis up to the seating capacity of the room, which is about 70 persons.

The NASA Life Sciences Committee serves in an advisory capacity only. In this capacity it is concerned with man in relation to space travel and habitation, with exobiology, with other life forms, and including: physiology, behavior, clinical aerospace medicine, microbiology, radiobiology, biochemistry, nutrition and food technology, biology of gravity and rhythms, and biotechnology. The current Chairman is Dr. Shields Warren. There are 17 members.

The following list sets forth the approved agenda and schedule for the April 25-26, 1974, meeting of the Life Sciences Committee. For further information, please contact Dr. Stanley C. White: Area Code 202, 755-2350.

APRIL 25, 1974

Time	*Topic*
0900-0930 --	Administrative (Purpose: Subjects being discussed will include topics such as final approval of previous committee and subcommittee reports; report on results of Space Program Advisory Council meeting; scientific areas requiring appointment of new members to the committee for next year.)
0930-1200 --	Skylab Life Sciences Results (Purpose: Data obtained from Skylab flights in the following areas will be presented for committee information and comments:) a. Findings From Life Sciences experiments and operational medical findings; b. Reports on Human Engineering, Habitability and man's capabilities; c. Reports on Life Support Systems and provisions.
1330-1500 --	Viking Project (Purpose: Reports on progress on development and testing of Life Detection experiments, advances in Planetary Quarantine standards and plans; test program of vehicle compatibility before launch. Further LSC comments will be solicited.)
1500-1530---	Aeronautics Life Sciences (Purpose: Summary report on the NASA research program to develop the criteria for designers to use in assuring passenger comfort in future aircraft will be presented as background for the committee.)
1530-1600---	Utilization of Space Life Sciences Technology by Non-Space Sector (Purpose: A summary of efforts being pursued by agencies or organizations outside of NASA will be presented as background information for committee.)
1600-1630---	Human Research Standards (Purpose: Summary of actions taken in coordination with other agencies during the last year on the development of Human Research Standards will be discussed. Committee comments will be solicited.)

[2] Voting for this action: Chairman Burns and Governors Brimmer, Sheehan, Bucher, Holland, and Wallich. Absent and not voting: Governor Mitchell.

1630-1700--- General Discussion (Purpose: To formulate position on issues discussed during day.)

April 26, 1974

0830-0930--- Planning for Life Sciences Program for fiscal year 1976 (Purpose: Scientific and technical thrusts being considered for fiscal year 1976 will be discussed with objective of gaining committee comments.)

0930-1000--- Environmental Impact Study (Purpose: Résumé of actions taken since last Life Sciences Committee meeting to coordinate physical science and biological studies to permit understanding Shuttle effects. Committee comments will be solicited.)

1000-1045--- Teleoperators Research and Development Program (Purpose: Summary of supporting research and technology program and planning for future flight experimentation will be presented for the purpose of eliciting committee comments.)

1045-1115--- Advanced Environmental System Development (Purpose: The supporting research and technology development and testing programs for advanced environmental systems will be presented with the objective of obtaining committee comments.)

1115-1145--- NASA Activities in Wild Life Tracking (Purpose: The LSC recommendations will be sought on course of action to be followed by NASA to insure that an acceptable scientific quality and approach in the program is pursued.)

1145-1230--- General Discussion (Purpose: To formulate position on issues discussed during meeting.)

BOYD C. MYERS, II,
Assistant Associate Administrator for Organization and Management, National Aeronautics and Space Administration.

MARCH 28, 1974.

[FR Doc.74-7632 Filed 4-2-74;8:45 am]

NATIONAL COMMUNICATIONS SYSTEM

ELECTRICAL CHARACTERISTICS OF BALANCED AND (2) UNBALANCED VOLTAGE DIGITAL INTERFACE CIRCUITS

Proposed Federal Standards 1020 and 1030

The Administrator of the General Services Administration (GSA) is responsible, under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On 14 August 1972, the National Communications System (NCS) [1] was designated by the Administrator, GSA, as the responsible agent for the development of telecommunication standards for NCS interoperability and the computer-communication interface. The Federal Telecommunication Standards Committee (FTSC) was established under the administration of NCS to accomplish this mission. Additionally, the Secretary of Commerce is authorized, under the provisions of Pub. L. 89-306, to make appropriate recommendations to the President relating to the establishment of uniform Federal automatic data processing standards.

These two proposed Federal standards are part of a series of joint Federal telecommunication standards and Federal Information Processing Standards (FIPS) falling within the area of mutual responsibility of the NCS and the National Bureau of Standards (NBS) as defined in FIPS PUB 23 [2] and NCS Circular 175-1.[3]

The proposed Federal Standards will adopt, in their entirety, the proposed Electronic Industries Association (EIA) standards proposals SP-1162 and SP-1163, when concurred in by the appropriate Federal Government agencies, EIA, and respondents to this notice. The two proposed EIA standards specify the electrical characteristics for balanced and unbalanced digital interface circuits, normally implemented in integrated circuit technology, that may be employed for interchange of serial binary signals at the DC baseband level in any interconnection between voice or data equipment. The proposed EIA standards were developed by an EIA Technical Subcommittee with substantial Federal Government participation and have been recommended for adoption as Federal Standards by the FTSC in response to requirements specified by various government agencies.

Prior to submission of the final endorsement of these proposals to the Office of Telecommunications Policy (OTP) Executive Office of the President, and GSA, it is essential to ensure that proper consideration is given the needs and views of industry, the public, and state and local governments. The purpose of this notice is to solicit such views. Interested parties may submit their comments to the Office of the Manager, National Communications System, ATTN: NCS-TS, Washington, D.C. 20305. Those parties desiring copies of the EIA standards proposals SP-1162 and SP-1163 or who would like to be included on the EIA ballot list should submit their request directly to the Electronic Industries Association, Engineering Department, 2001 Eye Street, Washington, D.C. 20006. All comments should be submitted to NCS or EIA, as appropriate, not later than May 15, 1974.

ROBERT D. TERRY,
Major General, U.S.A.
Vice Director.

MARCH 29, 1974.

PROPOSED FEDERAL STANDARD 1020

DIGITAL INTERFACE CHARACTERISTICS, ELECTRICAL, BALANCED VOLTAGE CIRCUIT

AUTHORITY. This standard is issued pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (40 U.S.C. 759 et seq.), and as implemented by Ex. Order No. 11717, May 9, 1973, 38 FR 12315 (1973). Its application to both data processing systems and telecommunication systems is mandatory on all Federal agencies to the extent specified herein.

S1. *Purpose.* The purpose of this standard is to facilitate interoperability between telecommunication facilities and systems of the Federal Government and compatibility of these facilities and systems at the computer-communications interface with data processing equipment (systems) of the Federal Government.

S2. *Scope.* This standard specifies the electrical characteristics of the balanced voltage digital interface circuit normally implemented in integrated circuit technology that may be employed for the interchange of serial binary data, timing, and control signals between voice or data equipment where information is being conveyed at the DC baseband level at modulation rates up to 10 megabauds.

S3. *Application.* This standard shall be used by all Federal agencies where balanced voltage digital interface circuits are to be employed.

S4. *Applicable documents.* The following document, of the issue in effect on the date of invitation for bids or request for proposals, form part of this standard to the extent specified herein:

Electronic Industries Association (EIA) Standard RS------, Electrical Characteristics of the Balanced Voltage Digital Interface Circuit.

NOTE.—Application for copies of this document should be addressed to Electronic Industries Association, 2001 Eye Street, NW., Washington, D.C. 20006).

S5. *Requirements.* The electrical characteristics of the balanced voltage digital interface circuit shall conform to EIA Standard RS------.

NOTE: This is a proposed standard presently being balloted for industrial approval by EIA. Any substantive technical changes resulting from the EIA ballot will be further coordinated in the Federal Government before final approval of this proposed standard. This note will be removed from this document when the proposed standard is approved by both the Federal Government and EIA and prior to its final publication.

S6. *Changes.* When a Federal agency considers that this standard does not provide for its essential needs, a statement citing inadequacies shall be sent in duplicate to the General Services Administration, Federal Supply Service, Standardization Division, Washington, D.C. 20406, in accordance with provisions of Federal Property Management Regulations 41 CFR 101-29.3. The General Services Administration will determine the

[1] DoD Directive 5100.41 "Arrangements for Discharge of Executive Agent Responsibilities for the NCS"—filed as part of original document.

[2] Filed as part of original. Copies available from U.S. Government Printing Office, Washington, D.C. 20402 (order by SD Catalog No. C13.52:23).

[3] Filed as part of original. Copies available from Office of Manager, NCS, Washington, D.C. 20305.

appropriate action to be taken and will notify the agency.

S7. *Conflict with referenced documents.* Where the requirements stated in this standard conflict with any requirements in a referenced document, the requirements of this standard shall apply. The nature of the conflict between this standard and a referenced document shall be submitted in duplicate to the General Services Administration, Federal Supply Service, Standardization Division, Washington, D.C. 20406.

S8. *Notes.* Federal Government activities may obtain copies of this standard or other Federal Specifications, Standards, and Handbooks at established distribution points in their agencies. Activities outside the Federal Government may obtain copies of Federal Specifications, Standards, and Handbooks as outlined under General Information in the Index of Federal Specifications and Standards and at the prices indicated in the Index. The Index, which includes cumulative monthly supplements as issued, is for sale on a subscription basis by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Purchase orders for copies of this standard should be submitted to the General Services Administration, Specifications Activity, Printed Materials Supply Division, Building 197, Washington Navy Yard Annex, Washington, D.C. 20407.

Maintenance Agency

Office of the Manager
National Communications System (NCS-TS)
Washington, D.C. 20305

PROPOSED FEDERAL STANDARD 1030

DIGITAL INTERFACE CHARACTERISTICS, ELECTRICAL, UNBALANCED VOLTAGE CIRCUIT

AUTHORITY: This standard is issued pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (40 U.S.C. 759 et seq.), and as implemented by Ex. Order No. 11717, May 9, 1973, 38 FR 12315 (1973). Its application to both data processing systems and telecommunication systems is mandatory on all Federal agencies to the extent specified herein.

S1. *Purpose.* The purpose of this standard is to facilitate interoperability between telecommunication facilities and systems of the Federal Government and compatibility of these facilities and systems at the computer-communications interface with data processing equipment (systems) of the Federal Government.

S2. *Scope.* This standard specifies the electrical characteristics of the unbalanced voltage digital interface circuit normally implemented in integrated circuit technology that may be employed for the interchange of serial binary data, timing, and control signals between voice or data equipment where information is being conveyed at the DC baseband level at modulation rates up to 100 kilobauds.

S3. *Application.* This standard shall be used by all Federal agencies where unbalanced voltage digital interface circuits are to be employed.

S4. *Applicable documents.* The following document, of the issue in effect on the date of invitation for bids or request for proposals, form part of this standard to the extent specified herein:

Electronic Industries Association (EIA) Standard RS ____, Electrical Characteristics of the Unbalanced Voltage Digital Interface Circuit.

NOTE.—Application for copies of this document should be addressed to Electronic Industries Association, 2001 Eye Street NW., Washington, D.C. 20006.

S5. *Requirements.* The electrical characteristics of the unbalanced voltage digital interface circuit shall conform to EIA Standard RS ____.

NOTE.—This is a proposed standard presently being balloted for industrial approval by EIA. Any substantive technical changes resulting from the EIA ballot will be further coordinated in the Federal Government before final approval of this proposed standard. This note will be removed from this document when the proposed standard is approved by both the Federal Government and EIA and prior to its final publication.

S6. *Changes.* When a Federal agency considers that this standard does not provide for its essential needs, a statement citing inadequacies shall be sent in duplicate to the General Services Administration, Federal Supply Service, Standardization Division, Washington, D.C. 20406, in accordance with provisions of Federal Property Management Regulations 41 CFR 101-29.3. The General Services Administration will determine the appropriate action to be taken and will notify the agency.

S7. *Conflict with referenced documents.* Where the requirements stated in this standard conflict with any requirements in a referenced document, the requirements of this standard shall apply. The nature of the conflict between this standard and a referenced document shall be submitted in duplicate to the General Services Administration, Federal Supply Service, Standardization Division, Washington, D.C. 20406.

S8. *Notes.* Federal Government activities may obtain copies of this standard or other Federal Specifications, Standards and Handbooks at established distribution points in their agencies. Activities outside the Federal Government may obtain copies of Federal Specifications, Standards, and Handbooks as outlined under General Information in the Index of Federal Specifications and Standards and at the prices indicated in the Index. The Index, which includes cumulative monthly supplements as issued, is for sale on a subscription basis by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Purchase orders for copies of this standard should be submitted to the General Services Administration, Specifications Activity, Printed Materials Supply Division, Building 197, Washington Navy Yard Annex, Washington, D.C. 20407.

Maintenance Agency

Office of the Manager
National Communications System (NCS-TS)
Washington, D.C. 20305

[FR Doc.74-7640 Filed 4-2-74;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

FEDERAL GRAPHICS EVALUATION ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Federal Graphics Evaluation Advisory Panel to the National Council on the Arts will be held at 9:15 a.m. on April 5, 1974, in Room 1100 of the Shoreham Building, 806 15th Street NW., Washington, D.C.

A portion of this meeting will be open to the public on April 5 from 9:15 a.m. to 12 a.m. on a space available basis. Accommodations are limited. The remaining portion of this meeting on April 5 is for the purpose of Panel review, discussion, evaluation, and recommendation on graphics under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determinatiton of the Chairman published in the FEDERAL REGISTER of January 10, 1973, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(4), (5), (6)), will not be open to the public.

Further information with reference to this meeting can be obtained from Sue Shanks, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 382-5871.

EDWARD M. WOLFE,
Administrative Director, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.74-7759 Filed 4-2-74;8:45 am]

LITERATURE ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Literature Advisory Panel to the National Council on the Arts will be held at 9 a.m. on April 4 and 5, 1974 at the New York Sheraton Hotel in New York City.

A portion of this meeting will be open to the public on April 5 from 1 p.m. to 4 p.m. on a space available basis. Accommodations are limited. Distribution of quality books will be discussed at this session.

The remaining session of this meeting on April 4 and 5 are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(4), (5), and (6)), will not be open to the public.

Further information with reference to this meeting can be obtained from Sue R. Shanks, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 382-5871.

EDWARD M. WOLFE,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.74-7758 Filed 4-2-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5483]

ALLEGHENY POWER SYSTEM, INC., ET. AL.

Issue and Sale of Common Stock and a Capital Contribution

In the matter of Allegheny Power System, Inc., 320 Park Avenue, New York, New York 10022; Monongahela Power Co., 1310 Fairmont Avenue, Fairmont, West Virginia 26554; The Potomac Edison Co., Downsville Pike, Hagerstown, Maryland 21740; West Penn Power Co., Cabin Hill, Greensburg, Pennsylvania 15601.

Notice is hereby given that Allegheny Power System, Inc. ("APS"), a registered holding company, and three of its public-utility subsidiary companies, Monongahela Power Company ("Monongahela"), The Potomac Edison Company ("PE"), and West Penn Power Company ("West Penn"), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6, 7, 9, 10, and 12 thereof and rule 50 (a)(3) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

APS proposes to acquire additional shares of common stock of Monongahela and PE and to make a further investment in the equity of West Penn by means of a capital contribution, in the amounts not to exceed those set forth in the table below, from time to time prior to September 30, 1974.

Subsidiary and title of issue	Shares	Cash consideration
Monongahela: Common stock—$50 par	300,000	$15,000,000
PE: Common stock—no par	500,000	10,000,000
West Penn: Capital contributions		15,000,000

The net proceeds of the issuance and sale of common stock by Monongahela and PE and of the cash capital contributions to West Penn will be used by each of them for their construction programs. For the year 1974, construction expenditures in the case of Monongahela, PE, and West Penn are estimated at $56.5 million, $41 million, and $75.2 million, respectively. All of the presently outstanding common stock of Monongahela, PE, and West Penn is owned by APS.

APS proposes to pledge all of the shares of common stock of Monongahela and PE it acquires with Chemical Bank, the Trustee under the Trust Indenture dated as of September 1, 1949, securing the 3½ percent Sinking Fund Collateral Trust Bonds of APS in accordance with the requirements of said Indenture.

It is estimated that total expenses, including legal fees to be incurred by APS, Monongahela, PE, and West Penn will not exceed $2,500. Prior authorization of the Ohio Public Utilities Commission in the case of Monongahela and the Maryland Public Service Commission in the case of PE is required in connection with the proposed transactions as to acquisition of the PE common stock by APS and by Chemical Bank as pledgee. Registration by Pennsylvania Public Utility Commission of a Securities Certificate and authorization of the Virginia State Corporation Commission with respect to the PE issuance of common stock may be required because of proposed transactions pending before the Commission (see Holding Company Act Release No. 18069, August 27, 1973). It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 26, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective pursuant to rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] SHIRLEY E. HOLLIS,
Senior Recording Secretary.

[FR Doc.74-7695 Filed 4-2-74;8:45 am]

[70-5477]

AMERICAN NATURAL GAS CO., ET. AL.

Proposal To Issue and Sell Promissory Notes, First Mortgage Pipe Line Bonds, and of Common Stock

In the matter of American Natural Gas Co., 30 Rockefeller Plaza, Suite 4545, New York, New York 10020; Michigan Consolidated Gas Co.; Michigan Wisconsin Pipe Line Co., One Woodward Avenue, Detroit, Michigan 48226. Notice is hereby given that American Natural Gas Company ("American Natural"), a registered holding company, Michigan Wisconsin Pipe Line Company ("Michigan Wisconsin"), a non-utility subsidiary company of American Natural, and Michigan Consolidated Gas Company ("Michigan Consolidated"), a gas utility subsidiary of American Natural, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6, 7, 9, 10 and 12(f) of the Act and rules 43 and 50 thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Michigan Wisconsin proposes to issue and sell, subject to the competitive bidding requirements of rule 50 under the Act, $50,000,000 principal amount of its First Mortgage Pipe Line Bonds ("New Bonds"), — percent Series, due 1994. The interest rate on the New Bonds (which shall be a multiple of ⅛th of 1 percent) and the price to be received by Michigan Wisconsin for the New Bonds (which price, exclusive of accrued interest, shall be not less than 98½ percent, and not more than 101½ percent, of the principal amount) are to be determined by competitive bidding. The New Bonds will be issued under a mortgage and deed of trust, dated as of September 1, 1948, as heretofore supplemented and as to be further supplemented by a Twenty-seventh Supplemental Indenture, to be dated as of June 1, 1974, between Michigan Wisconsin and First National City Bank and Peter A. Armenia, as Trustees ("Indenture"), which includes a prohibition until June 1, 1979 against refunding the New Bonds with the proceeds of funds borrowed at a lower effective interest cost. A sinking fund will be commenced on June 1, 1979 to retire the issue by maturity. The Indenture provides that sinking fund payments shall be accelerated under certain circumstances relating to annual reports which are required to be submitted to the Indenture Trustees regarding estimated dates of exhaustion of firm gas supply.

Michigan Wisconsin also proposes to sell, and American Natural proposes to purchase, an additional 580,000 shares of Michigan Wisconsin's common stock, par value $100 per share, for a cash consideration of $58,000,000. Accordingly, Michigan Wisconsin proposes to amend its Certificate of Incorporation to increase its authorized capital stock from 2,445,000 to 3,025,000 shares. Prior to or concurrently with the sale of the common stock, Michigan Wisconsin will pay to American Natural a special cash dividend in the amount of $20,000,000, the effect of the two transactions being to convert $20,000,000 of Michigan Wisconsin's existing retained earnings into common stock.

Michigan Consolidated proposes to sell, and American Natural proposes to purchase, an additional 1,500,000 shares of

Michigan Consolidated's common stock, par value $14 per share, for a cash consideration of $21,000,000. Accordingly, Michigan Consolidated proposes to amend its Articles of Incorporation to increase its authorized capital stock from 13,600,000 to 15,100,000 shares.

To provide the funds necessary for making investments in the common stock of Michigan Wisconsin and Michigan Consolidated of up to $38,000,000 and $21,000,000 respectively, American Natural proposes to borrow from banks under lines of credit an aggregate of $60,000,000 on its unsecured promissory notes ("Notes") maturing one year from the date of issuance (which will be between April 28 and June 19, 1974, or the date of sale of Michigan Wisconsin's New Bonds, whichever is later). American Natural has obtained lines of credit from banks (herein collectively referred to as "Banks") providing for this borrowing. The Banks and their respective commitments are as follows:

	Amount (millions)
First National City Bank, New York, N.Y.	$25
Manufacturers Hanover Trust Co., New York, N.Y.	20
The Chase Manhattan Bank, New York, N.Y.	15
Total	60

American Natural will pay a fee of ½ of 1 percent on any unused commitment, although the commitment can be reduced at any time without penalty. The notes may be prepaid at any time without penalty, will bear interest at one percent over the prime rate in effect at the lending bank on the date of borrowing, and shall be payable at the end of each 90-day period subsequent to the date of the first borrowing and at maturity. The additional interest is in lieu of the normal compensating balance arrangements.

Michigan Wisconsin will apply the net proceeds from the proposed sale of the New Bonds and common stock to repay outstanding bank loans or commercial paper used to finance 1973 and 1974 capital requirements and to finance, in part, its construction program, or to make advance payments to producers. Michigan Consolidated will apply the net proceeds from the sale of its common stock to retire outstanding short-term debt and to finance, in part, its 1974 construction program.

A statement of the fees, commissions and expenses incurred or to be incurred in connection with the proposed transactions will be supplied by amendment. The Michigan Public Service Commission has jurisdiction over the proposed sale of common stock by Michigan Consolidated to American Natural, and the order of that authority will be supplied by amendment. It is stated that no other State commission, and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 24, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

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

[FR Doc.74-7696 Filed 4-2-74;8:45 am]

[File No. 500-1]

BBI, INC.

Suspension of Trading

MARCH 29, 1974.

The common stock of BBI, Inc., being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from March 30, 1974 through April 8, 1974.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS, *Senior Recording Secretary.*

[FR Doc.74-7697 Filed 4-2-74;8:45 am]

[File No. 500-1]

BRINCO, LTD.

Suspension of Trading

MARCH 29, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Brinco, Ltd. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from March 31, 1974 through April 9, 1974.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS, *Senior Recording Secretary.*

[FR Doc.74-7698 Filed 4-2-74;8:45 am]

[File No. 500-1]

CANADIAN JAVELIN, LTD.

Suspension of Trading

MARCH 28, 1974.

The common stock of Canadian Javelin, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Canadian Javelin, Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from March 29, 1974 through April 7, 1974.

By the Commission.

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

[FR Doc.74-7699 Filed 4-2-74;8:45 am]

[File No. 500-1]

ELECTROSPACE CORP.

Suspension of Trading

The common stock and Conv. Sub. Deb. 5½ percent due October 1983 of Electrospace Corporation being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all securities of Electrospace Corporation being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is re-

quired in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from April 1, 1974 through April 10, 1974.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS, *Senior Recording Secretary.*

[FR Doc.74-7700 Filed 4-2-74;8:45 am]

MISSISSIPPI POWER & LIGHT CO.

Notice of Advance to Non-Associated Company Pursuant to Gas Gathering and Transmission Agreement

Notice is hereby given that Mississippi Power & Light Company ("Mississippi"), an electric utility subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed a first post-effective amendment to its previously amended application-declaration filed in this proceeding pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7 and 10(c)(1) of the Act as applicable to the following proposed transaction. All interested persons are referred to the post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

By order dated July 23 ,1973 (Holding Company Act Release No. 18039), the Commission authorized Mississippi to execute a Gas Gathering and Transmission Agreement ("Agreement") with Mississippi Fuel Co. ("Fuelco") providing for the transportation by Fuelco of gas purchased by Mississippi from the point of purchase to the Mississippi generating stations. The agreement with Fuelco provides that Mississippi shall make certain monthly payments based, in part, upon the interest and amortization of $9,500,000 of privately-placed notes ("Notes") issued by Fuelco and guaranteed by Mississippi to finance the construction of a pipeline and gathering facilities ("System"). The cost of the System described in the Commission's order was $1,069,330 in excess of the $9,500,000 provided by the Notes and Mississippi has advanced such sum to Fuelco. Mississippi proposes to enter into a Supplemental Agreement to the Agreement with Fuelco under which Fuelco would agree to refund that advance plus interest at the rate of 8 percent per annum (the same basis as the Notes) over the remaining term of the Agreement. In all other respects the transactions heretofore authorized and described in the above-mentioned Commission order remain unchanged.

The Agreement contemplated that the full cost of the System constructed by Fuelco pursuant thereto would be paid for entirely out of the proceeds realized from the sale of the Fuelco's 8 percent secured notes, due July 31, 1993. The said Agreement was drawn contemplating that the amounts payable by Mississippi pursuant to the Agreement would pay in full all installments of principal and interest on the Notes. Upon completion in November, 1973 it was determined that the cost of the System would be in excess of the proceeds of the Notes by approximately $1,069,330, which resulted in Fuelco's inability to pay its creditors.

This failure to pay creditors could have resulted in an impairment of Fuelco's ability to perform the Agreement and result in a situation in which Mississippi would have a right to terminate the Aggregate and acquire the System. To avoid this problem, Mississippi has temporarily made a cash advance of $1,069,330 to Fuelco to enable Fuelco to discharge its obligations to creditors for the construction of the System. The expense of Fuelco's negotiating and issuing additional Notes in such a small amount makes this method of financing impractical. As an alternative, Mississippi proposes to enter into a Supplemental Agreement to the Agreement with Fuelco under which the $1,069,330 advanced by Mississippi would be refunded by Fuelco, together with interest at the rate of 8 percent per annum, over the remaining term of the Agreement. Fuelco's obligation to make such payments would be limited to the extent of funds paid to Fuelco by Mississippi pursuant to the proposed Supplemental Agreement. Mississippi proposes to charge the additional amount paid to Fuelco under the Supplemental Agreement to its Fuel Expense.

No special fees and expenses are anticipated in connection with the transactions referred to herein. It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than April 15, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration as further amended by said post-effective amendment which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendment or as it may be further amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-7606 Filed 4-2-74;8:45 am]

[70-5484]

MISSISSIPPI POWER & LIGHT CO.

Notice of Proposal To Issue and Sell First Mortgage Bonds and Preferred Stock At Competitive Bidding

MARCH 29, 1974.

Notice is hereby given that Mississippi Power and Light Company, P.O. Box 1640, Jackson, Mississippi 39205, ("Mississippi"), an electric utility subsidiary company of Middle South Utilities, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and rule 50 promulgated thereunder as applicable to the following proposed transactions. All interested parties are referred to said declaration, which is summarized below, for a complete statement of the proposed transactions.

Mississippi proposes to issue and sell at competitive bidding, $25 million principal amount of its First Mortgage Bonds ---- percent Series due 2004. The interest rate, which shall be a multiple of ⅛ of 1 percent, and the price, which shall be not less than 100 percent nor more than 102.75 percent of the principal amount thereof, will be determined by competitive bidding. The bonds will be issued under the company's Mortgage and Deed of Trust dated as of September 1, 1944 ("Indenture") between Mississippi and Irving Trust Company, Trustee, as heretofore supplemented and as to be further supplemented by a Sixteenth Supplemental Indenture to be dated as of May 1, 1974. None of the bonds may be redeemed at the general redemption prices prior to May 1, 1979, if such redemption is for the purpose or in anticipation of refunding such bonds through the use, directly or indirectly, of funds borrowed by the company at an effective interest cost to the company of less than the effective interest cost of the bonds.

Mississippi further proposes to issue and sell, at competitive bidding, 75,000 shares of its Preferred Stock, Cumulative, $100 par value. The dividend rate, which shall be a multiple of 0.04 percent, and the price to be paid to Mississippi, which shall be not less than $100 nor more than $102.75 per share, will be determined by competitive bidding. The preferred stock is to be issued under the applicable provisions of the company's Restated Arti-

cles of Incorporation as amended which provide that no share of the preferred stock may be redeemed prior to May 1, 1979, if such redemption is for the purpose or in anticipation of refunding such share through the use, directly or indirectly, of funds borrowed by the company, or through the use, directly or indirectly, of funds derived through the issuance by the company of other preferred stock, if such borrowed funds have an effective interest cost to the company or such stock has an effective dividend cost to the company of less than the effective dividend cost to the company of the preferred stock.

The declaration states that Mississippi will use the net proceeds from the sale of bonds and preferred stock, estimated to be approximately $32.5 million, to repay short-term borrowings, for payment at maturity of $12 million principal amount of First Mortgage Bonds, 3⅛ percent Series due September 1, 1974, to finance, in part, the company's 1974 construction program (estimated at $102 million), and for other corporate purposes.

A statement of the fees, commissions, and expenses incurred or to be incurred in connection with the proposed transactions will be supplied by amendment. No State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 25, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules under the Act as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

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

[FR Doc.74-7702 Filed 4-2-74;8:45 am]

[File No. 500-1]

NATIONAL ALFALFA DEHYDRATING AND MILLING CO.

Suspension of Trading

MARCH 26, 1974.

The common stock of National Alfalfa Dehydrating and Milling Company being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of National Alfalfa Dehydrating and Milling Company being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19 (a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from March 27, 1974 through April 5, 1974.

By the Commission.

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

[FR Doc.74-7701 Filed 4-2-74;8:45 am]

[File No. 500-1]

PATTERSON CORP.

Suspension of Trading

MARCH 29, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Patterson Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from March 31, 1974 through April 9, 1974.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS, *Senior Recording Secretary.*

[FR Doc.74-7703 Filed 4-2-74;8:45 am]

[File No. 3-4457; 70-4709]

PENN FUEL GAS, INC. AND JOHN H. WARE

Notice of Filing and Order For Hearing

MARCH 26, 1974.

Notice is hereby given that Penn Fuel Gas, Inc. 55 South Third Street, Oxford, Pennsylvania 19363, ("Penn Fuel"), an exempt public utility holding company, and John H. Ware ("Ware"), an affiliate of Penn Fuel, have filed an application and amendments thereto with this Commission pursuant to sections 9 and 10 of the Public Utility Holding Company Act of 1935 ("Act"), regarding a proposed offer to exchange shares of Penn Fuel common stock for the common stock of North Penn Gas Company ("North Penn"), a public utility company. All interested persons are referred to the application, as amended, which is summarized below for a complete statement of the proposed transactions.

Penn Fuel, a Pennsylvania corporation, is an exempt holding company pursuant to section 3(a)(1) of the Act. Holding Company Act Release No. 10646 (June 29, 1951). Ware, the president and a director of Penn Fuel, owns or controls, directly or indirectly, approximately 93 percent of its outstanding common stock. Penn Fuel, in turn, is the parent company of twenty-five wholly-owned subsidiary gas utility companies, of which twenty-four are incorporated in Pennsylvania and doing business solely within its boundaries and one is incorporated in Maryland and does business in both Maryland and Pennsylvania. The utility subsidiary companies are presently supplying natural gas at retail to about 29,000 customers. Penn Fuel also engages through other subsidiaries in the sale of liquefied propane gas in containers to customers in Pennsylvania, New Jersey, Delaware and Maryland, and engages in the sale of gas appliances in connection with its overall business. As of June 30, 1973, Penn Fuel recorded on a consolidated basis (unaudited) assets, less accumulated depreciation and retirements, of $23,962,897. Its consolidated net income for the twelve months ended June 30, 1973, amounted to $1,131,460.

North Penn is a gas utility company incorporated in Pennsylvania and engaged in supplying gas at retail to approximately 28,000 customers in eight counties in northern Pennsylvania. North Penn sells gas at wholesale to other gas utility companies operating in Pennsylvania and New York, and also sells gas appliances to its retail customers. On June 30, 1973, North Penn reported assets, less accumulated depreciation and retirements, of $23,563,664. Its net income for the twelve months ended June 30, 1973, amounted to $1,135,230.

On March 20, 1969, the Commission pursuant to Section 9(a)(2) and (10) approved an application of Ware, members of his family and others whose stock ownership might be attributed to him ("associates") to acquire majority control of the common stock of North Penn (Holding Company Act Release No. 16319). Ware, currently chairman of North Penn's board of directors, and his associates acquired approximately 64 percent of North Penn's stock.

In the application to acquire the North Penn stock, Ware represented that within two years after the date of such purchase, he would cause North Penn to become a subsidiary company of Penn Fuel and eliminate the minority interest of the common stock of North Penn by purchase for cash or "the issuance of securities of Penn Fuel for such stock by means of a tender offer, merger or otherwise on terms approved by the Commission under the Public Utility Holding Company Act of 1935." By supplemental

order (Holding Company Act Release No. 17096, April 4, 1971), the Commission extended the time to eliminate the publicly-held minority interest in North Penn until December 31, 1971.

On December 30, 1971, Ware filed an application proposing to exchange shares of Penn Fuel common stock for at least 90 percent of the outstanding stock of North Penn (or such lesser amount as was satisfactory to Penn Fuel). The proposed exchange included three conditions precedent. The applicants requested a further extension of time until 60 days after approval of the acquisition of North Penn stock by Penn Fuel and the fulfillment of the conditions precedent. One such condition has been satisfied, but two others, discussed below, are also included in the current amended plan.

By amendment to the application, Penn Fuel and Ware now proposes to exchange the shares of Penn Fuel common stock for at least 90 percent of the outstanding stock of North Penn on the basis of nine shares of Penn Fuel stock for every ten shares of North Penn stock. It is stated that before the exchange offer can be completed, Penn Fuel must (1) receive the commitments of all holders of North Penn notes to exchange the same for Penn Fuel obligations of equal aggregate principal amount and having substantially similar provisions as to interest, maturity and amortization, and (2) receive from the holders of 75 percent of Penn Fuel's presently outstanding Collateral Trust Bonds such waivers or consents as may be required to permit the transaction to be consummated without violating the Indenture securing said bonds.

In the event that less than all of the outstanding North Penn stock is exchanged for Penn Fuel stock, within 30 days after the effective date of the exchange, Penn Fuel proposes to register as a holding company pursuant to section 5(a) of the Act for the purpose of filing a plan under section 11(e) of the Act in order to eliminate any outstanding minority interest in North Penn. The terms of such a plan would be substantially the same as those in the exchange offer set forth above.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. The applicants have requested that a hearing be held on this application, as amended.

It is hereby ordered, That a hearing be held in respect to the application, as amended, and that the hearing commence on June 3, 1974, or such later date as may be designated by the hearing officer, at 10:00 A.M. at the office of the Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 in such room as may be designated by the hearing room clerk.

The Division of Corporate Regulation of the Commission has advised the Commission that it has made a preliminary examination of the affairs and corporate structures of Penn Fuel and North Penn and of this amended application. Upon the basis thereof, the following matters and questions are presented for consideration, without prejudice, however, to the presentation of additional matters and questions upon further examination:

1. Do the terms of the exchange satisfy the requirements of the last sentence of Section 10(b) and do they comply with the commitment to the North Penn minority stockholders as set forth in the application to acquire the North Penn stock, which the Commission approved by order of March 20, 1969?

2. Should the terms of the exchange be amended to require Ware and his associates to include an offer to the minority stockholders of North Penn to pay them in cash the fair value of their stock as an alternative to the exchange offer by Penn Fuel?

3. Does the proposed acquisition of the North Penn stock by Penn Fuel meet the requirements of Section 10, particularly Section 10(c)(1)?

4. Should the order of March 20, 1969, be revoked if the present proposal is not approved and it appears that further substantial delays to comply with the commitment to eliminate the North Penn minority interest may occur?

5. What conditions, if any, should be imposed in an order approving the transactions proposed in the pending amended application?

It is further ordered, That at said hearing evidence shall be adduced with respect to the foregoing matters and questions.

It is further ordered, That jurisdiction be, and it hereby is, reserved to separate in whole or in part, either for hearing or for disposition, any issues or questions which may arise in this proceeding and to take such other action as may appear conducive to an orderly, prompt and economical disposition of the matters involved.

It is further ordered, That an Administrative Law Judge, hereinafter to be designated, shall preside at said hearing. The officer so designated is hereby authorized to exercise all powers granted to the Commission under section 18(c) of the Act and to a hearing officer under the Commission's Rules of Practice.

It is further ordered, That any person, other than applicants desiring to be heard in this proceeding or proposing to intervene therein shall file with the Secretary of the Commission, on or before May 15, 1974, a written request relative thereto as provided in rule 9 of the Commission's Rules of Practice. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with request. Persons filing an application to participate or be heard will receive notice of any adjournment of the hearing as well as other official actions involving the subject matter of this proceeding.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid by mailing copies of this Notice and Order for Hearing by certified mail to the Pennsylvania Public Utility Commission and the Federal Power Commission; that Penn Fuel shall mail copies of this Notice and Order for Hearing, not later than April 15, 1974, to the stockholders of record of North Penn and Penn Fuel and that notice to all other interested persons shall be given by a general release of the Commission and by publication of this Notice and Order for Hearing in the Federal Register.

By the Commission.

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

[FR Doc.74-7704 Filed 4-2-74;8:45 am]

[812-3536]

PFL VARIABLE ANNUITY FUND ET AL.

Notice of Application

MARCH 27, 1974.

In the matter of PFL Variable Annuity Fund I; PFL Variable Annuity Fund II; PFL Variable Annuity Fund III; PFL Variable Annuity Fund IV; PFL Variable Annuity Fund V; PFL Variable Annuity Fund VI; Piedmont Capital Corporation; and Pacific Fidelity Life Insurance Company.

Notice is hereby given that PFL Variable Annuity Fund I, PFL Variable Annuity Fund II, PFL Variable Annuity Fund III, PFL Variable Annuity Fund IV, PFL Variable Annuity Fund V, and PFL Variable Annuity Fund VI (the "Funds"), each of which is registered under the Investment Company Act of 1940 (the "Act") as a unit investment trust, Pacific Fidelity Life Insurance Company, 10960 Wilshire Boulevard, Los Angeles, California 90024 ("PFL"), and Piedmont Capital Corporation (the "Underwriter") (PFL, the Funds and the Underwriter being collectively referred to hereinafter as the "Applicants") have filed an application pursuant to section 11 of the Act for approval of an offer of exchange and pursuant to section 6(c) for exemptions from the provisions of sections 22(d), 26(a) and 27(c)(2) of the Act, to the extent noted below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

PFL, a stock life insurance company incorporated under the laws of California, is a wholly-owned subsidiary of Piedmont Holding Company, Inc., which is itself wholly-owned by Piedmont Management Company, Inc. ("Piedmont"), a diversified financial services company.

Each of the Funds was established as a separate account of PFL for the purpose of funding individual and group variable annuity contracts which will be offered and sold to the public. Funds I, III and V are designed to fund group variable annuity contracts which are qualified for special tax treatment under sections 401 and 403(b) of the Internal Revenue Code, and Funds II, IV and VI are designed for funding individual non-

tax qualified variable contracts. The Funds will invest the purchase payments they receive pursuant to the contracts, less deductions, in shares of diversified open-end investment companies of the Lexington Group, i.e., the assets of Funds I and II will be invested in shares of Lexington Research Fund, Inc., the assets of Funds III and IV will be invested in shares of Lexington Growth Fund, Inc., and the assets of Funds V and VI will be invested in shares of Lexington Income Fund, Inc. The Underwriter, a New York corporation wholly-owned by Piedmont, acts as the principal underwriter for the above-mentioned Lexington Group and will also be the underwriter for the variable annuity contracts to be issued by the Funds. Each of the Funds will receive payments made pursuant to both installment payment and single purchase payment variable annuity contracts.

Section 11. Applicants request an order pursuant to section 11(a) of the Act to permit values accumulated under a contract issued with respect to a Fund to be exchanged for a contract issued by a different Fund where the new contract is the same in all material aspects to the contract being exchanged except for the underlying investment company of the Lexington Group in which the assets of separate Funds are invested. No fee, penalty or other charge payable to PFL will be assessed against contract holders who exercise the exchange privilege.

Accumulation values under any of the contracts issued by Applicants are computed by deducting from purchase payments sales and administrative expenses, the charge for the optional minimal death benefit, if such optional benefit has been purchased, and, where applicable, any premium taxes. The net amount is then credited to a contract owner's account in the form of accumulation units. The initial value of an accumulation unit has been arbitrarily set at $1.00. The value of such unit for any subsequent valuation period will be determined by multiplying the accumulation unit value for the immediately preceding valuation period by a factor which reflects the investment performance of the appropriate separate account for such period. While the number of accumulation units which may be credited to a contract holder after an exchange is completed may, because of differences in the value of units of different separate accounts, differ from the number which he held under a prior contract, the total dollar value of the units exchanged and the units acquired will be the same at the time of the exchange.

The exchange privilege may be exercised only between Funds which issue contracts of the same tax status and then only once each year. In connection with the exercise of the exchange privilege, current prospectuses of the relevant Funds and their underlying investment companies will be provided to contract holders. The proposed exchange privileges will enable a contract holder, without any additional charges, to change the investment medium in which he has invested to another with investment objectives that meet his changing needs.

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such a company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of section 11(a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

Section 22(d). Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security to the public except at a current offering price described in the prospectus.

Applicants request an exemption from the provisions of section 22(d) to permit exercise of the above described proposed exchange privileges without any additional sales and administrative charges. Such exchange will occur on the basis of accumulation value which, in the variable annuity context, is analogous to net asset value for management investment companies. Applicants assert that upon the reallocation among separate accounts of previously invested funds that have already been subject to a sales charge, no sales effort and little administrative expense are required or incurred and that, therefore, any additional sales and administrative charges would not be justified.

Applicants' variable annuity contracts also provide that a contract holder may under specified circumstances allocate net proceeds of purchase payments, in multiples of 25 percent, between the fixed and the variable side of the contract. Applicants request an additional exemption from section 22(d) of the Act to permit contract owners to transfer, during the period prior to the initiation of annuity payments, accumulated values from the fixed dollar portion of a contract to the variable portion without any deduction for sales and administrative expense. Such transfers would not be permitted more than once a year. Applicants assert that since the same sales and administrative charges are assessed upon purchase payments irrespective of whether such payments are allocated to a fixed or variable account, the imposition of additional sales and administrative charges upon transfer of such proceeds would be unreasonable.

Applicants request a further exemption from the provisions of section 22(d) to permit the determination of the applicable sales and administrative charges, which vary depending upon the size of a purchase payment, to be based on the entire amount of the purchase payment received pursuant to a single purchase payment contract regardless of the allocation of the net proceeds of the payment between the fixed and variable sides of the contract.

Applicants request an additional exemption from the provisions of section 22(d) to permit reduced sales and administrative charges if purchase payments under a contract are derived from amounts payable under life insurance and annuity contracts issued by PFL, i.e., from death benefits and/or settlements under life insurance and annuity policies, maturity values of endowment policies, and cash surrender values of insurance and annuity policies. Applicants state that the lower sales charges are justified because the sales expenses associated with the sale of contracts in the circumstances described will be lower than the expenses which would otherwise be incurred.

Finally, Applicants request an exemption from the provisions of section 22(d) to permit a beneficiary named under any of Applicants' variable annuity contracts to elect to receive the death benefit in the form of a variable annuity without any sales or administrative expense charges.

Sections 26(a) and 27(c)(2). Sections 26(a) and 27(c)(2), as here pertinent, provide in substance that a registered unit investment trust, and any depositor and underwriter for the trust, are prohibited from selling periodic payment plan certificates unless the proceeds of all payments other than the sales load are deposited with a qualified bank as trustee or custodian and held under an indenture or agreement containing specified provisions. Such agreement must provide, in part, that (i) the custodian bank shall have possession of all the property of the unit investment trust and shall segregate and hold the same in trust; (ii) the custodian bank shall not resign until either the unit investment trust has been liquidated or a successor custodian has been appointed; (iii) the custodian may collect fees from the income and if necessary from the corpus of the trust for services performed and for reimbursement of expenses incurred; and (iv) that no payment to the depositor or principal underwriter shall be allowed the custodian bank as an expense, except a fee, not exceeding such reasonable amount as the Commission may prescribe, as compensation for performing bookkeeping and other administrative expenses normally performed by the custodian. Although the assets of the Funds are held under custodian agreements with a bank having the qualifications described in section 26(a) of the Act, the agreement does not create a trust with respect to the assets of the Funds because PFL, as a life insurance company, must retain ownership of its property. Accordingly, an exemption is requested from the foregoing provisions to the extent necessary to make the requirement that the assets be held in a trust inapplicable.

In support of the requested exemption from the foregoing provisions of the Act, Applicants state that under the custodian agreements the assets of the Funds will be held by the custodian and will be physically segregated and separated from the property of any other person.

The custodian agreements require the Custodian to dispose of the underlying securities and other assets of the Funds only for the purposes set forth in the contracts and prospectuses relating thereto and only upon written instructions signed by certain officers of PFL or their agents. Applicants further state that PFL is subject to the supervision and control of the Department of Insurance of the State of California and other state insurance administrators, and that PFL files with such authorities annual statements of financial condition in a prescribed form and is examined periodically as to its financial affairs by such authorities. Applicants also state that the Funds have been established pursuant to California law which provides that the assets of the Funds shall not be chargeable with liabilities arising out of any other business PFL may conduct. However, all obligations under the variable annuity contracts participating in the Funds are general obligations of PFL and it may not abrogate its obligations under such contracts.

Applicants contend that the foregoing laws, regulations and arrangements, and the assets and surplus of PFL provide substantial assurance that all obligations under the contracts issued by the Funds will be performed.

Applicants consent that the requested exemptions may be subject to the conditions (1) that the charge under the contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose, and (2) that the payment of sums and charges out of the assets of the Funds shall not be deemed to be exempted from regulation by the Commission by reason of the requested order. However, Applicants' consent to these conditions shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets, other than the charges for administrative services, and Applicants reserve the right, in any proceeding before the Commission or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Section 6(c) of the Act authorizes the Commission upon application to exempt any person from any provision or provisions of the Act conditionally or unconditionally if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 22, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following April 22, 1974, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

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

[FR Doc.74-7705 Filed 4-2-74;8:45 am]

[File No. 500-1]

REPUBLIC NATIONAL LIFE INSURANCE CO.

Notice of Suspension of Trading

MARCH 28, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Republic National Life Insurance Company being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from March 29, 1974 through April 7, 1974.

By the Commission.

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

[FR Doc.74-7706 Filed 4-2-74;8:45 am]

[File No. 500-1]

ROYAL PROPERTIES INCORPORATED

Notice of Suspension of Trading

MARCH 28, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Royal Properties Incorporated being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from March 29, 1974 through April 7, 1974.

By the Commission.

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

[FR Doc.74-7707 Filed 4-2-74;8:45 am]

[File No. 500-1]

U.S. FINANCIAL INCORPORATED

Notice of Suspension of Trading

MARCH 29, 1974.

The common stock of U.S. Financial Incorporated being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of U.S. Financial Incorporated being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from March 30, 1974 through April 8, 1974.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS, *Senior Recording Secretary.*

[FR Doc.74-7708 Filed 4-2-74;8:45 am]

[File No. 500-1]

WESTGATE CALIFORNIA CORP.

Notice of Suspension of Trading

MARCH 29, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock (class A and B), the cumulative preferred stock (5 percent and 6 percent), the 6 percent subordinated debentures due 1979 and the 6½ percent convertible subordinated debentures due 1987 being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities ex-

change is suspended, for the period from March 31, 1974 through April 9, 1974.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Senior Recording Secretary.

[FR Doc.74-7709 Filed 4-2-74;8:45 am]

SELECTIVE SERVICE SYSTEM

REGISTRANTS PROCESSING MANUAL

The Registrants Processing Manual is an internal manual of the Selective Service System. The following portions of that Manual are considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER. Therefore these materials are set forth in full.

Temporary Instruction No. 631-14/621-5; Subject: 1974 Random Sequence Lottery and Processing Registrants by RSN and

Chapter 628—Examination of Registrants (Revised March 18, 1974).

Temporary Instruction No. 619-3; Subject: Termination of Accountability for Registrants Born in 1948-51.

JOHN D. DEWHURST,
Deputy Director.

MARCH 22, 1974.

[Temporary Instruction No. 631-14/621-5]
Issued: March 20, 1974.
SUBJECT: 1974 Random Sequence Lottery and Processing Registrants By RSN

1. The results of the lottery held on March 20, 1974, for registrants born in 1955, are shown on the attached Tables No. 631-13 and 631-14. Each RPM holder will insert these tables in his or her copy of the RPM, following Table No. 631-12.

2. Random Sequence Number 095 is established as the Administrative Processing Number (APN) for registrants born in 1955. Registrants born in 1955, with RSN 001 through 095, shall have their classifications reopened, under the provisions of the RPM.

3. The Registrant RSN report by SSN, RIB Report No. 150, will be distributed shortly. This RIB Report will be used in the posting of RSNs of registrants born in 1955. The Registrant RSN Processing Record, RIB Report No. 152, will follow, and will be used as a worksheet in the processing of registrants born in 1955, with RSN 001-095.

4. The APN for registrants born in 1954 continues to be 095.

5. Temporary Instruction No. 631-13/621-4 is rescinded.

This Temporary Instruction will terminate upon amendment or rescission.

JOHN D. DEWHURST,
Deputy Director.

Attachments

TABLE NO. 631-13. *1975 random sequence by date*

	January	February	March	April	May	June	July	August	September	October	November	December
1	070	191	026	328	214	253	119	079	204	038	047	115
2	134	116	053	152	161	309	192	082	028	143	187	211
3	041	155	260	212	343	180	290	360	051	084	158	071
4	077	341	292	223	289	361	318	295	151	193	251	209
5	002	018	228	023	348	345	031	148	024	145	063	043
6	349	128	007	030	156	121	195	317	337	311	019	166
7	087	219	165	227	331	320	062	131	108	321	353	138
8	215	333	056	200	169	020	225	262	271	132	078	113
9	229	067	340	286	198	307	270	033	061	171	083	300
10	173	244	344	306	177	240	354	099	302	358	236	196
11	352	312	250	032	012	027	176	081	029	003	105	350
12	058	185	139	179	117	254	086	085	040	259	118	197
13	060	356	006	256	111	313	231	268	124	010	297	201
14	189	235	042	048	346	129	243	220	222	364	296	308
15	109	315	102	213	338	135	178	127	245	172	068	146
16	246	003	103	325	234	130	122	096	281	052	182	072
17	101	357	046	330	106	175	363	080	342	224	059	034
18	055	159	261	335	016	183	351	241	120	258	210	194
19	208	301	257	282	045	263	066	094	150	319	293	097
20	100	076	136	075	057	322	280	305	233	324	174	092
21	044	188	049	283	232	203	147	294	160	073	036	255
22	269	133	267	206	247	011	025	279	275	009	157	336
23	355	114	226	141	299	326	167	329	291	274	098	091
24	264	090	008	190	248	239	013	199	004	272	022	153
25	362	207	237	170	314	202	218	327	273	287	017	163
26	164	242	205	277	249	288	140	088	123	069	037	181
27	323	252	162	125	112	005	039	265	359	285	316	238
28	278	001	035	216	089	298	221	021	347	142	284	332
29	184		054	365	014	230	304	154	276	144	095	310
30	303		015	065	137	186	217	107	110	149	104	266
31	168		334		074		339	064		126		050

TABLE No. 631–14. *1975 random sequence by sequence number*

001	Feb. 28	110	Sept. 30
002	Jan. 5	111	May 13
003	Feb. 16	112	May 27
004	Sept. 24	113	Dec. 8
005	June 27	114	Feb. 23
006	Mar. 13	115	Dec. 1
007	Mar. 6	116	Feb. 2
008	Mar. 24	117	May 12
009	Oct. 22	118	Nov. 12
010	Oct. 13	119	July 1
011	June 22	120	Sept. 18
012	May 11	121	June 6
013	July 24	122	July 16
014	May 29	123	Sept. 26
015	Mar. 30	124	Sept. 13
016	May 18	125	Apr. 27
017	Nov. 25	126	Oct. 31
018	Feb. 5	127	Aug. 15
019	Nov. 6	128	Feb. 6
020	June 8	129	June 14
021	Aug. 28	130	June 16
022	Nov. 24	131	Aug. 7
023	Apr. 5	132	Oct. 8
024	Sept. 5	133	Feb. 22
025	July 22	134	Jan. 2
026	Mar. 1	135	June 15
027	June 11	136	Mar. 20
028	Sept. 2	137	May 30
029	Sept. 11	138	Dec. 7
030	Apr. 6	139	Mar. 12
031	July 5	140	July 26
032	Apr. 11	141	Apr. 23
033	Aug. 9	142	Oct. 28
034	Dec. 17	143	Oct. 2
035	Mar. 28	144	Oct. 29
036	Nov. 21	145	Oct. 5
037	Nov. 26	146	Dec. 15
038	Oct. 1	147	July 21
039	July 27	148	Aug. 5
040	Sept. 12	149	Oct. 30
041	Jan. 3	150	Sept. 19
042	Mar. 14	151	Sept. 4
043	Dec. 5	152	Apr. 2
044	Jan. 21	153	Dec. 24
045	May 19	154	Aug. 29
046	Mar. 17	155	Feb. 3
047	Nov. 1	156	May 6
048	Apr. 14	157	Nov. 22
049	Mar. 21	158	Nov. 3
050	Dec. 31	159	Feb. 18
051	Sept. 3	160	Sept. 21
052	Oct. 16	161	May 2
053	Mar. 2	162	Mar. 27
054	Mar. 29	163	Dec. 25
055	Jan. 18	164	Jan. 26
056	Mar. 8	165	Mar. 7
057	May 20	166	Dec. 6
058	Jan. 12	167	July 23
059	Nov. 17	168	Jan. 31
060	Jan. 13	169	May 8
061	Sept. 9	170	Apr. 25
062	July 7	171	Oct. 9
063	Nov. 5	172	Oct. 15
064	Aug. 31	173	Jan. 10
065	Apr. 30	174	Nov. 20
066	July 19	175	June 17
067	Feb. 9	176	July 11
068	Nov. 15	177	May 10
069	Oct. 26	178	July 15
070	Jan. 1	179	Apr. 12
071	Dec. 3	180	June 3
072	Dec. 16	181	Dec. 26
073	Oct. 21	182	Nov. 16
074	May 31	183	June 8
075	Apr. 20	184	Jan. 29
076	Feb. 20	185	Feb. 12
077	Jan. 4	186	June 30
078	Nov. 8	187	Nov. 2
079	Aug. 1	188	Feb. 21
080	Aug. 17	189	Jan. 14
081	Aug. 11	190	Apr. 24
082	Aug. 2	191	Feb. 1
083	Nov. 9	192	July 2
084	Oct. 3	193	Oct. 4
085	Aug. 12	194	Dec. 18
086	July 12	195	July 6
087	Jan. 7	196	Dec. 10
088	Aug. 26	197	Dec. 12
089	May 28	198	May 9
090	Feb. 24	199	Aug. 24
091	Dec. 23	200	Apr. 8
092	Dec. 20	201	Dec. 13
093	Oct. 11	202	June 25
094	Aug. 19	203	June 21
095	Nov. 29	204	Sept. 1
096	Aug. 16	205	Mar. 26
097	Dec. 19	206	Apr. 22
098	Nov. 23	207	Feb. 25
099	Aug. 10	208	Jan. 19
100	Jan. 20	209	Dec. 4
101	Jan. 17	210	Nov. 18
102	Mar. 15	211	Dec. 2
103	Mar. 16	212	Apr. 3
104	Nov. 30	213	Apr. 15
105	Nov. 11	214	May 1
106	May 17	215	Jan. 8
107	Aug. 30	216	Apr. 28
108	Sept. 7	217	July 30
109	Jan. 15	218	July 25

TABLE No. 631–14. *1975 random sequence by sequence number*

219	Feb. 7	293	Nov. 19
220	Aug. 14	294	Aug. 21
221	July 28	295	Aug. 4
222	Sept. 14	296	Nov. 14
223	Apr. 4	297	Nov. 13
224	Oct. 17	298	June 28
225	July 8	299	May 23
226	Mar. 23	300	Dec. 9
227	Apr. 7	301	Feb. 19
228	Mar. 5	302	Sept. 10
229	Jan. 9	303	Jan. 30
230	June 29	304	July 29
231	July 13	305	Aug. 20
232	May 21	306	Apr. 10
233	Sept. 20	307	June 9
234	May 16	308	Dec. 14
235	Feb. 14	309	June 2
236	Nov. 10	310	Dec. 29
237	Mar. 25	311	Oct. 6
238	Dec. 27	312	Feb. 11
239	June 24	313	June 13
240	June 10	314	May 25
241	Aug. 18	315	Feb. 15
242	Feb. 26	316	Nov. 27
243	July 14	317	Aug. 6
244	Feb. 10	318	July 4
245	Sept. 15	319	Oct. 19
246	Jan. 16	320	June 7
247	May 22	321	Oct. 7
248	May 24	322	June 20
249	May 26	323	Jan. 27
250	Mar. 11	324	Oct. 20
251	Nov. 4	325	Apr. 16
252	Feb. 27	326	June 23
253	June 1	327	Aug. 25
254	June 12	328	Apr. 1
255	Dec. 21	329	Aug. 23
256	Apr. 13	330	Apr. 17
257	Mar. 19	331	May 7
258	Oct. 18	332	Dec. 28
259	Oct. 12	333	Feb. 8
260	Mar. 3	334	Mar. 31
261	Mar. 18	335	Apr. 18
262	Aug. 8	336	Dec. 22
263	June 19	337	Sept. 6
264	Jan. 24	338	May 15
265	Aug. 27	339	July 31
266	Dec. 30	340	Mar. 9
267	Mar. 22	341	Feb. 4
268	Aug. 13	342	Sept. 17
269	Jan. 22	343	May 3
270	July 9	344	Mar. 10
271	Sept. 8	345	June 5
272	Oct. 24	346	May 14
273	Sept. 25	347	Sept. 28
274	Oct. 23	348	May 5
275	Sept. 22	349	Jan. 6
276	Sept. 29	350	Dec. 11
277	Apr. 26	351	July 18
278	Jan. 28	352	Jan. 11
279	Aug. 22	353	Nov. 7
280	July 20	354	July 10
281	Sept. 16	355	Jan. 23
282	Apr. 19	356	Feb. 13
283	Apr. 21	357	Feb. 17
284	Nov. 28	358	Oct. 10
285	Oct. 27	359	Sept. 27
286	Apr. 9	360	Aug. 3
287	Oct. 25	361	June 4
288	June 26	362	Jan. 25
289	May 4	363	July 17
290	July 3	364	Oct. 14
291	Sept. 23	365	Apr. 29
292	Mar. 4		

CHAPTER 628 (REV MAR 18, 1974)

EXAMINATION OF REGISTRANTS

Index

CHAPTER 628

EXAMINATION OF REGISTRANTS

Section 628.1 *Acceptability for Military Service.* Every registrant, before he is ordered to report for induction or ordered to perform alternate service in lieu of induction, shall have his acceptability for military service determined by the Armed Forces Examining and Entrance Station (AFEES) under standards of acceptability prescribed by the Secretary of Defense, except that a registrant who has volunteered for induction or a registrant who has failed or refused to report for and submit to an armed forces examination or any part of the examination shall have his acceptability determined at the time he reports for induction.

Section 628.2 *"Papers Only" Evaluation by AFEES Prior to Armed Forces Examination.* 1. A registrant whose acceptability for military service has not been determined may be found to be unacceptable on the basis of a review by the AFEES of medical documentation without the registrant undergoing an armed forces examination. This is known as a "papers only" evaluation.

2. Upon receipt of medical documentation concerning a registrant which indicates that he is claiming disqualification from military service on the basis of a medical condition or defect, the local board shall record the receipt of the medical documentation on page 2 of the Registrant File Folder (SSS Form 101) or page 8 of the Classification Questionnaire, and it shall:

a. Forward the documentation to the appropriate AFEES for evaluation, with a transmittal letter (see Attachment 628–1 to this Chapter), and

b. Enter on page 2 of the Registrant File Folder or page 8 of the Classification Questionnaire the date the registrant's medical documentation was forwarded to the AFEES.

3. AFEES will evaluate medical documentation of an unexamined registrant's condition, or claimed defect and will issue a DD Form 62 if the registrant is determined to be unacceptable, or will prepare and submit to the local board, a form letter (see Attachment 628–7) indicating the registrant's con-

dition or defect is, (1) not considered disqualifying for military service, or (2) the documentation is insufficient for the purpose of determining physical qualifications for military service. The AFEES will return all documentation to the local board with the DD Form 62 or form letter.

a. When the response is a DD Form 62 indicating disqualification, the local board shall consider the registrant for classification into Class 4-F. The registrant's copy of the DD Form 62 will be mailed to him.

b. When the form letter indicates the condition or defect is not considered disqualifying or the documentation is insufficient for the purpose of determining the registrant's physical qualification, the local board shall inform the registrant by letter (see Attachment 628-2) that his acceptability for military or alternate service will be determined when he is examined at the AFEES.

Section 628.3 *RSN Cut-offs for Armed Forces Examination.* 1. Registrants in the First Priority Selection Group for the current year, with a Randum Sequence Number (RSN) equal to or below the armed forces examination (AFE) cut-off number established for that group by the current Temporary Instruction, will be ordered for armed forces examination if they have not previously been found qualified or disqualified, and they:

a. Are in Class 1-A, 1-A-O, 1-O or 1-H, or

b. Are expected to be reclassified into Class 1-A, 1-A-O or 1-O in the near future.

2. Registrants who will be in the following year's First Priority Selection Group, with an RSN equal to or below the AFE cut-off number established for that group by the current Temporary Instruction, will be ordered for armed forces examination if they have not previously been found qualified or disqualified and they:

a. Are in Class 1-A, 1-A-O, 1-O or 1-H, or

b. Are expected to be reclassified into Class 1-A, 1-A-O or 1-O in the near future.

3. Registrants who are members of the Extended Priority Selection Group, who are in Class 1-A, 1-A-O, or 1-O, or whose reclassification into one of those classes is expected to occur soon, will be ordered for armed forces examination if they have not previously been found qualified or disqualified.

Section 628.4 *Order to Report for Examination.* 1. Any local board member or compensated employee of the local board or compensated employee of the Selective Service System whose official duties require the performance of administrative duties at the local board shall select and order registrants for armed forces examination in accordance with the instructions of the Director of Selective Service or the State Director of Selective Service. The date specified for reporting for such examination shall be at least 15 days after the date on which the Order to Report for Armed Forces Examination (SSS Form 223) is mailed unless the registrant waives the notice period in writing. If the local board determines that a registrant is a member of a recognized church, religious sect or religious organization which has historically observed certain religious holidays, and the registrant is scheduled for armed forces examination on one of those holidays, his examination shall be rescheduled by SSS Form 223, if he so requests in writing. If a registrant who has been ordered for an armed forces examination informs his local board that he has previously had an armed forces examination as a result of an earlier attempt to enlist in the armed forces, the registrant will be instructed to contact his recruiter and request that the recruiter arrange for the original medical records to be submitted to the AFEES. The registrant will be required to report as ordered unless notified otherwise by his local board.

a. Registrants shall be ordered for examination without regard to an outstanding request for personal appearance or appeal. In the event the file of a registrant who is eligible for an armed forces examination is forwarded to the appeal board prior to his order for an armed forces examination, any pertinent medical records will be retained by the local board so that the registrant may be delivered for armed forces examination when reached. If the registrant's file is at the appeal board when he becomes eligible for armed forces examination, the local board will request through the State Director the return of the medical records, and the appeal board shall return any such medical records to the local board so the registrant may be forwarded for armed forces examination.

b. Medical specialists will be ordered for armed forces examination in accordance with section 628.6 of this Chapter.

c. Registrants who are outside the continental United States, the State of Alaska, the State of Hawaii, Puerto Rico, Guam, the Virgin Islands and the Canal Zone will be ordered for armed forces examination in accordance with the provisions of Chapter 655.

d. The Order to Report for Armed Forces Examination (SSS Form 223) shall be prepared and distributed in accordance with its procedural directive.

e. Completion of parts of the medical examination often requires that a registrant be retained by AFEES for up to three days. The AFEES authority to retain registrants up to three days for observation, tests, or any other related purpose, is prescribed in Department of the Army regulations. It eliminates the need for the AFEES to request local boards to return many registrants for re-examination at a later date and is designed to relieve registrants of the inconvenience of travel and loss of employment or study time necessitated by a second examination.

2. As soon as the local board has mailed orders to report for armed forces examination to all registrants who are to appear for an armed forces examination at a particular time and place, it shall:

a. Prepare, in five copies, a Physical Examination List (SSS Form 225) in accordance with the procedural directive (see sample SSS Form 225 in Attachment 628-8). Registrants shall be grouped by year of birth and listed in ascending order by RSN with the RSN placed immediately following each registrant's name.

b. For each registrant ordered, assemble and attach to the copy of the SSS Form 223 which is to be forwarded to AFEES any information in the possession of the local board which should be considered in determining the acceptability of the registrant for military service or alternate service, and

c. Forward the required copies of the SSS Form 223, including attached medical information and any other records, with the copy of the SSS Form 225 and 225-A, if applicable, which is sent to the AFEES within the time established by the State Director and the AFEES concerned.

Section 628.5 *Armed Forces Examination for Class 1-O Registrants.* 1. A registrant classified in Class 1-O shall be ordered to report for an armed forces examination in the same manner as a 1-A or 1-A-O registrant. If he fails to report for or submit to an armed forces examination, he shall be considered as available for selection and processed for alternate service in the same manner as if he had been found acceptable.

2. A Class 1-O registrant who has been found acceptable need not be re-examined before he is ordered to report for alternate service. If a registrant develops a claimed disqualifying condition or defect, after he has had an AFE, the local board compensated employee shall send any documentation provided by the registrant to the AFEES for a "papers only" evaluation. The procedures described in section 628.2 regarding the submission of "papers only" cases to the AFEES and actions to be taken following receipt of the AFEES response will be followed except that the sample letter, Attachment 628-2 will not be used to notify a registrant of an AFEES finding that the claimed condition or defect is not considered disqualifying or the documentation is insufficient. In such instances, the registrant will be informed by letter of the reasons his claim is rejected and will be advised that he will be expected to report for his alternate service, if and when ordered.

3. A Class 1-O registrant will be forwarded for examination in the same manner as any other registrant. Forms prepared by the local board for forwarding registrants for examination will not identify a registrant as a 1-O.

Section 628.6 *Armed Forces Examination for Medical Specialists.* 1. a. Upon notification that examinations of medical specialist registrants are to be resumed, each local board shall, as a continuing procedure, forward a registrant for armed forces examination as soon as possible after he has; (a) received a professional degree as a doctor of medicine, dentistry, optometry, veterinary medicine, or podiatry; (b) completed internship in the case of a doctor of osteopathy; or (c) been licensed to practice professional nursing; except for a registrant classified in Class 1-C, 1-D, 1-W, 2-D, 4-A, 4-B, 4-D, 4-G, or 4-W. The registrants' profession shall be shown on the Order to Report for Armed Forces Examination (SSS Form 223) in accordance with its procedural directive.

b. A medical specialist registrant who has previously been examined as a regular registrant shall, after being identified by the local board as a medical specialist, be forwarded for examination in accordance with paragraph a. above, regardless of a previous examination. Medical specialists are examined under Medical Specialist Medical Fitness Standards rather than under standards applicable to registrants subject to a regular call. Therefore, a registrant found to be unacceptable for military service as a regular registrant, would not necessarily be unacceptable for military service as a medical specialist registrant.

(1) A separate Physical Examination List (SSS Form 225) shall be prepared for medical specialists. When registrants in more than one medical specialty are being forwarded, they shall be listed separately by specialty on the form.

(2) A copy of Statement of Personal History (DD Form 398) will not be forwarded to a doctor of medicine, doctor of osteopathy, optometrist, dentist, veterinarian, podiatrist, or registered nurse, when he is ordered to report for armed forces examination.

(3) The Statement of Acceptability (DD Form 62) will be forwarded to the local board through the State Director.

(4) Medical specialists shall be permitted to travel to the AFEES by private automobile. They shall be notified in writing of this option. If a medical specialist desires to travel by private auto, he should be requested to sign a waiver of liability. (See Attachment 628-4)

(5) With the exceptions as provided by paragraphs (1), (2), (3), and (4) above, medical specialists will be processed and forwarded for armed forces examination in the same manner as regular registrants.

2. To eliminate the necessity for two armed forces examinations for physicians who are applicants for the armed forces residency program (Berry Plan for doctors of medicine and the ORD Program for doctors of osteopathy), the armed forces have issued the following instructions:

a. The local board will be informed when one of its registrants reports for an armed forces examination as a Berry Plan or ORD applicant;

b. The appropriate State Director will receive a Statement of Acceptability (DD Form 62) from the armed forces for physicians who have been examined as applicants for the Berry Plan or ORD Program;

Section 628.7 *Postponement of Armed Forces Examination.* The issuance of an Order to Report for Armed Forces Examination (SSS Form 223) may be delayed by the local board in case of death of a member of the registrant's immediate family, extreme emergency involving a member of the registrant's immediate family, serious illness of the registrant, or other circumstances beyond the registrant's control. The forwarding of a registrant for examination under an Order to Report for Armed Forces Examination (SSS Form 223) may be postponed, by letter, by the local board to a date certain not later than 60 days from the date of such postponement in case of death of a member of the registrant's immediate family, serious illness of the registrant, or other circumstances beyond the registrant's control. The Director or State Director of Selective Service may, for good cause, direct the local board to delay the issuance of an order to report for armed forces examination, or to postpone or extend the postponement of the reporting date. Any postponement under this section shall be terminated whenever the cause for the delay has ceased to exist or upon the request of the registrant. A registrant may be notified of his rescheduled reporting date through the issuance of a new SSS Form 223 at any time, provided such reporting date is after the termination of the postponement. The registrant shall be given at least 15 days notice of the rescheduled reporting date unless he waives the notice period in writing.

Where the issuance of the SSS Form 223 is delayed by the local board, and the reason for the delay is noted in the file folder, no notice of this need be sent to the registrant.

Where a registrant's scheduled AFE has been rescheduled to a specific date (month, date, year), the registrant will be sent a new SSS Form 223. A notation will be made in the "Remarks" block of the form as follows, "This order cancels any previous Order to Report for Armed Forces Examination issued to you."

Where a registrant's scheduled AFE has been postponed and a new date has not been established, the registrant shall be sent a letter postponing his reporting date. A new SSS Form 223 will be issued at a later date when the new reporting date is established, giving the registrant at least 15 days notice of the new reporting date.

Section 628.8 *Transfer of Registrants for Examination.* 1. Any registrant desiring to be transferred for examination shall immediately report to the local board having jurisdiction in the area in which he requests his examination to be accomplished, and shall present his SSS Form 223 and apply for transfer by completing Part 1 of Transfer for Armed Forces Physical Examination or Induction (SSS Form 230).

a. Except as otherwise provided in paragraph 1.c. of this section, the local board to which the registrant submits his application shall investigate the circumstances of the registrant's absence from his own local board area. If it finds that he does not have a valid and established reason for his absence, it shall enter its disapproval in Part 2 of SSS Form 230, mail or issue the original to the registrant, file one copy, send one copy to the registrant's local board, and destroy the remaining copies. A brief statement giving the reason for disapproval shall be entered on the SSS Form 230. The registrant shall then be advised by the board to which he submitted his application that he is still required to report in accordance with the SSS Form 223 which he received from his local board.

(1) A registrant should be allowed to transfer only if the board of transfer is convinced that he has a valid and established reason to be in that board's area. A transfer to a nearby local board may be granted provided: (a) Local transportation facilities would make the transfer board easily accessible; (b) reporting to his own board would be unduly burdensome; and (c) the delay would not be excessive if he transfers.

(2) No request for transfer for examination should be approved when it is evident that the registrant is attempting to transfer primarily to delay compliance with orders, or for purposes inconsistent with his obligation to perform military training and service.

(3) The local board of transfer should consider whether a registrant requesting transfer is likely to return to the area of his own local board before the date it can schedule him for examination. If the likelihood of his return to his own local board area is apparent, the transfer board should recommend that he seek a postponement rather than a transfer.

b. If the local board with which the registrant files his application finds that he has a good reason for his absence from his own local board area and that it would be a hardship for him to return to his own local board area for his armed forces examination, it shall enter its approval in Part 2 of SSS Form 230, air mail (unless ordinary mail is as expeditious) the original and two copies to the registrant's own local board, mail or issue a copy to the registrant, file a copy, and destroy the remaining copy.

c. The local board to which the registrant submits his application shall enter its approval in Part 2 of SSS Form 230 whenever the registrant is located in one, and the registrant's own local board is located in another, of the following: The continental United States, the State of Alaska, the State of Hawaii, Puerto Rico, the Virgin Islands, Guam or the Canal Zone.

d. Immediately upon receiving the approved SSS Form 230, the registrant's own local board will complete Part 3 on the original and the two copies received. It shall then mail the original and one copy to the local board to which the registrant is being transferred, and file the remaining copy in the registrant's SSS Form 101. It shall also mail to the local board to which the registrant is being transferred for armed forces examination, copy 3 of the original SSS Form 223, and any information in the possession of the local board which should be considered by the AFEES in determining the acceptability of the registrant for military service.

e. Whenever a registrant is transferred to another local board for examination, make a notation of the transfer in the "Remarks" column of the SSS Form 225, page 8 of the SSS Form 100 or page 2 of SSS Form 101, and the SSS Form 102, and transmit all of the records of such registrant pertaining to his armed forces examination to the local board to which the registrant is transferred for examination.

f. When the local board to which the registrant is transferred for armed forces examination receives the papers from the registrant's own local board as provided in paragraph 1.d. of this section, it shall prepare a new SSS Form 223, using information shown on copy 3 of the original SSS Form 223, and distributing all copies in accordance with its procedural directive. The registrant will be given 15 days notice of the reporting date. Copy 3 of the original SSS Form 223 will then be destroyed and copy 4 of the new SSS Form 223 will be returned immediately to the registrant's own local board. The name of the registrant will be added to its SSS Form 225 indicating in the "Remarks" column that the registrant has been transferred from another local board, identifying the local board of record.

g. When the transferred registrant's examination has been completed or if he fails to report for examination, the local board to which the registrant was transferred for examination shall complete Part 4 on the original and one copy of SSS Form 230, forward original together with all the papers pertaining to the examination of the registrant to the local board of record and retain the completed copy.

2. The Director of Selective Service may direct that a particular registrant or a registrant who comes within a described group of registrants be transferred for armed forces examination to such local board or local boards as he shall designate. Whenever the Director of Selective Service has directed that a registrant shall be transferred for examination, the registrant's own local board shall prepare SSS Form 230, in an original and three copies, and in Part 1 record the date, the name, the Selective Service Number, and present address of the registrant, the name and address of the local board to which the registrant is transferred, and the words "Transferred for Armed Forces Examination by the Direction of the Director of Selective Service" and shall complete Part 3 of the form. The local board shall file one copy of SSS Form 230 in the SSS Form 101, mail one copy to its State Director of Selective Service, and mail the original and one copy, together with any medical information in the possession of the local board and any other records designated by the Director of Selective Service, to the local board to which the registrant is transferred for examination. The local board to which the registrant is transferred shall prepare and mail to the registrant an SSS Form 223 and shall take all other actions provided for in paragraphs 1(e) and (f) of this section which are applicable.

Section 628.9. *Duty of Registrant to Report for and Submit to Armed Forces Examination.* 1. When the local board mails to a registrant an Order to Report for Armed Forces Examination (SSS Form 223), it shall be the duty of the registrant to report for such examination at the time and place fixed in such order unless, after the date the SSS Form 223 is mailed and prior to the time fixed for the registrant to report for his armed forces examination, the local board cancels such SSS Form 223 or postpones the date and time when the registrant was to report and advises the registrant in writing of such cancellation or postponement.

2. If the date and time when the registrant is ordered to report for armed forces examination are postponed, it shall be the duty of the registrant to report for armed forces examination upon the termination of the postponement and he shall report for armed forces examination at such date, time and place as may be fixed by the local board. Regardless of the time when or the circumstances under which a registrant fails to report for armed forces examination, when it it his duty to do so, it shall be his continuing duty from day to day to report for armed forces examination to his local board and to each local board whose area he enters or in whose area he remains. (See paragraph 2(e) of section 628.11.)

3. Upon reporting for armed forces examination, it shall be the duty of the registrant to:

a. Follow the instructions of a local board member or compensated employee as to the

manner in which he will be transported to the location where his armed forces examination will take place;

b. Follow the instructions of the leader or assistant leaders for the group being forwarded for armed forces examination;

c. Appear for and submit to such examination as the commanding officer of the examining station shall direct;

d. Follow the instructions of a local board member or compensated employee as to the manner in which he will be transported on his return trip from the place where his armed forces examination takes place.

4. When a registrant is scheduled to report directly to the AFEES for armed forces examination, it shall be the duty of the registrant to report to the AFEES as ordered and follow instructions of the commanding officer or his representative.

5. If, for any reason, the registrant's armed forces examination cannot be completed, he shall be returned for armed forces examination at a later date.

Section 628.10 *Forwarding Registrants for Examination.* When registrants are to be forwarded for examination from a local board, or from a collection point supervised by a local board representative, they shall be assembled and the procedure shall be as follows:

1. The roll shall be called, using the previously prepared SSS Form 225, and any absence shall be recorded in the "Remarks" column.

2. A leader and assistant leader shall be appointed and furnished an Appointment of Leader or Assistant Leader (SSS Form 340).

3. The Leader shall be given the original and one copy of the SSS Form 225, and any additional medical statements received, in a sealed envelope. The leader shall be instructed to deliver the sealed envelope to the Commanding Officer of the AFEES or his representative.

4. When it is necessary, travel tickets or transportation requests, and meal and lodging requests for the return trip, shall be issued. The leader shall be instructed to return any unused meal and lodging requests to the local board.

5. The local board shall mail one copy of the SSS Form 225 to the State Director of Selective Service that same day and shall file one copy.

Section 628.11 *Action Taken When a Registrant Fails to Report for or Refuses to Submit to Examination or Mental Test.* 1. When a registrant refuses to submit to an examination or mental test, or any part of the examination, at the Armed Forces Examining and Entrance Station, the station commander has been instructed not to reject such a registrant as not acceptable for service in the armed forces but to return him to the local board and to transmit all of his records to the local board with a letter stating in detail the refusal of the registrant to submit to the examination or mental test, or any part.

2. Whenever a local board has convincing evidence that one of its own registrants failed to report or submit to his regularly scheduled armed forces examination or any part of the examination the local board shall:

a. Retain him in Class 1-A, 1-A-O, or 1-O, if he is in such class.

b. Retain him in his current classification until he would otherwise have been reclassified, if he is in a class other than 1-A, 1-A-O, or 1-O.

c. Regardless of his classification, consider the registrant for all purposes as if he has been fully examined and found acceptable for service after being given an armed forces examination. The symbol "XXX" shall be entered on page 1 of SSS Form 101 above the registrant's name and below his selective service number, or in the designated box. An appropriate entry shall be made on the SSS Form 102, SSS Form 112, and on page 8 of the SSS Form 100 or page 2 of the SSS Form 101.

d. When the AFEES returns the medical records to the local board indicating the registrant has failed to report for or refused to submit to an armed forces examination, the local board shall mail to the registrant his copy of the Record of Results of Armed Forces Examination (SSS Form 220).

e. If a registrant who has failed to report for or refused to submit to an armed forces examination, informs his local board of his willingness to be examined, the local board shall issue the registrant a new SSS Form 223, provided this will not delay his being ordered for induction. When the registrant is rescheduled for examination, the local board will send the AFEES a copy of the registrant's SSS Form 223, and he will be processed like any other registrant ordered for armed forces examination.

3. Whenever the local board receives from the Armed Forces Examining and Entrance Station the records of a transferred registrant with a letter of transmittal stating in detail the refusal of the registrant to submit to the examination or mental test, or any part of the examination, it shall forward all records including the letter of transmittal to the State Director having jurisdiction over the registrant's local board. The State Director shall forward the records and letter of transmittal to the local board of record, which shall proceed in the manner provided in paragraph 2 of this section.

Section 628.12 *Action Taken After Examination.* 1. The Commanding Officer of AFEES will forward to the local board the following documents concerning registrants forwarded for armed forces examination:

REGISTRANTS FOUND ACCEPTABLE

SSS Form 225 (completed original)
DD Form 62 (original and duplicate)
SF 88 (copy)
SF 93 (copy)
All other records forwarded by local board

REGISTRANTS FOUND NOT ACCEPTABLE

SSS Form 225 (completed original)
DD Form 62 (original and duplicate)
SF 88 (original)
SF 93 (original)
All other records forwarded by local board

2. The Commanding Officer of AFEES will retain one copy of the SSS Form 225 and send one copy to the State Director of Selective Service.

a. For each registrant found not qualified for service in the armed forces, the commanding officer of AFEES will retain one copy of Standard Form 88 and Standard Form 93.

b. For each registrant found qualified for service in the armed forces, the commanding officer of the examining station will retain the original of Standard Form 88 and Standard Form 93.

3. The local board, upon receipt of the documents described in paragraph 1 of this section, shall take the following action:

a. File the original SSS Form 225.

b. Mail the registrant's copy of DD Form 62, together with SSS Form 220 to the registrant, record the date of mailing on page 2 of SSS Form 101, or on page 8 of the Classification Questionnaire (SSS Form 100), and file the local board's copy of the DD Form 62 in the SSS Form 101.

c. For each registrant found acceptable for service in the armed forces, file the copy of Standard Form 88 and Standard Form 93 in his SSS Form 101. These forms shall be retained in the registrant's file folder until such time as he may be ordered for induction.

d. For each registrant found unacceptable for service in the armed forces, file the original of Standard Form 88 and Standard Form 93 in the SSS Form 101.

e. Enter on the SSS Form 101 in the space above the name and below the Selective Service Number, or in the designated box, the "X" "Y" "Z" symbols provided for in Section 628.18.

f. Enter the results of the armed forces examination ("acceptable" or "not acceptable") on the SSS Form 102 and page 8 of SSS Form 100 or page 2 of SSS Form 101.

4. Local boards will be furnished a DD Form 62 by the Commanding Officer of the AFEES, through the State Director, for registrants who have been given enlistment examinations and who have been found not qualified. A DD Form 62 will not be furnished to the local board for registrants who have been given enlistment examinations and who have been found qualified, whether or not they enlist.

Section 628.13 *"Papers Only" Evaluation by AFEES After an Armed Forces Examination.* 1. A registrant who has been found acceptable on the basis of a previous armed forces examination shall be offered the opportunity of a "papers only" evaluation of new information submitted concerning his physical condition.

2. The procedures described in section 628.2 will be followed regarding the submission of "papers only" cases to the AFEES and actions to be taken following receipt of the AFEES response.

3. A request from a registrant for a review of his acceptability status that does not contain new information in the form of medical documentation, should be acknowledged by the local board and the registrant should be advised that the medical information submitted will be forwarded to the AFEES concerned when the registrant is ordered for induction and that it will be considered only at that time. (See sample letter, Attachment 628-6)

Section 628.14 *Mental Standards for Induction.* 1. The Secretary of Defense has established the qualifying mental standards for induction.

2. Test scores on the Armed Forces Qualification Test (AFQT) are divided into categories as follows:

Mental Category	*AFQT Score*
1	93–100
2	65– 92
3	31– 64
4	10– 30
5	0– 9

3. When a registrant who was found acceptable for military service at an examination conducted prior to January 1, 1972, is reached for induction or volunteers for induction, the local board shall review his records to determine if he qualifies for induction under the revised mental standards set forth below:

Qualifying mental standards for induction

Armed Forces qualification test score (A)	Educational level	Required scores on supplementary aptitude tests (B)
31 to 100	All	None required.
21 to 30	All	Pass 1 aptitude area, score of 90.
16 to 20	High School Graduate	Pass 2 aptitude areas, score of 90.
	Non-H.S. Grad	Pass 2 aptitude areas, score of 90 and score of 90 on GT area.
10 to 15	All	Pass 2 aptitude areas, score of 90 and score of 80 on GT area.

a. Scores on the Armed Forces Qualification Test (AFQT) are expressed as percentiles. A score of 50 on the AFQT is average. Men who score between the 10th and 30th percentile are Group 4. Those who score 0–9 (Group 5) are unacceptable for induction unless administratively accepted by the AFEES.

b. There are 7 Aptitude Area Scores derived from the Army Qualification Battery (AQB) administered to Mental Group 4 at the AFEES. The General Technical Area (GT) is a composite of the tests on verbal and arithmetic ability. A score of 100 is average for Aptitude Area Scores.

c. When the local board finds that a registrant does not meet the qualifying mental standards for induction, the local board shall postpone the issuance of the Order to Report for Induction (SSS Form 252), or Notice of Rescheduled Induction Reporting Date (SSS Form 253) and forward his examination papers to the AFEES for re-evaluation and issuance of a new DD Form 62 when required. Upon receipt of the AFEES determination of a registrant's acceptability for military service, following such re-evaluation, the local board shall either consider the registrant for reclassification or continue his induction processing.

Section 628.15 *Processing of Inquiries and Complaints Regarding AFEES.* If correspondence criticizing the AFEES administration, examination procedures, or examining facilities is received by the local board, it shall be forwarded through the State Director to Headquarters, USAREC, for review. Correspondence having to do solely with statements of improper administration, examination procedures, or examination facilities received by National Headquarters will be forwarded to Headquarters, USAREC.

Section 628.16 *"Re-examination Believed Justified" (RBJ).* 1. A registrant who has been found unacceptable by AFEES at preinduction examination with "Re-examination Believed Justified" (RBJ) indicated on the Statement of Acceptability (DD Form 62), shall not be reclassified in Class 4–F but shall be retained in his present classification as long as he continues to qualify for that class. For example, a registrant in Class 1–A shall remain in 1–A unless he qualifies for a lower class other than 4–F; while a student in Class 2–S at the time of the examination shall remain in 2–S until he no longer qualifies. A letter shall be mailed to each registrant found unacceptable at preinduction examination with "Re-examination Believed Justified" (RBJ) as soon as possible following receipt of the Statement of Acceptability (DD Form 62). The letter shall be attached to the registrant's copy of DD Form 62 and SSS Form 220. A sample letter for this purpose is Attachment 628–3 to this Chapter. Appropriate entries will be made on the SSS Form 102 and page 8 of the SSS Form 100 or page 2 of the SSS Form 101. A card will be prepared for the suspense file.

2. A registrant who has been found unacceptable by the AFEES at his induction examination with "Re-examination Believed Justified" (RBJ) indicated on the Statement of the Acceptability (DD Form 62), shall not be classified into Class 4–F until he is re-examined and again found unacceptable. When a local board receives a registrant's DD Form 62 with RBJ indicated, following his induction examination, it shall:

a. Cancel the registrant's Order to Report for Induction (SSS Form 252) by issuing the registrant a Notice of Cancellation (SSS Form 255).

b. Retain the registrant in Class 1–A or 1–A–O as appropriate. A card shall be prepared for the suspense file indicating RBJ return date.

c. Mail the registrant's copy of DD Form 62 and SSS Form 220 to the registrant with a letter explaining his status. A sample letter for this purpose is an attachment to Chapter 632. Appropriate entries showing the determination made and the actions taken will be made on SSS Form 102 and page 8 of SSS Form 100 or page 2 of SSS Form 101.

3. When a local board determines that a registrant's RBJ period has expired or will expire within 15 days, it shall mail to the registrant an Order to Report for Armed Forces Examination (SSS Form 223) at least 15 days prior to the reporting date.

4. If upon re-examination based upon the AFEES recommendation of "Re-examination Believed Justified" (RBJ), the registrant is again found unacceptable, the local board shall consider classifying him in Class 4–F following receipt of the DD Form 62.

5. A registrant may not be returned to the AFEES for re-examination more than one time except in cases when an addition re-examination or consultation is requested by AFEES to evaluate a new disqualifying defect or new information concerning his previously disqualifying defect.

Section 628.17 *The Medically Remedial Program (MREP).* 1. Whenever a registrant has been determined to be unacceptable at the time of his armed forces examination solely due to one of the medical conditions acceptable under the Medically Remedial Program, the AFEES commander will ascertain whether the registrant desires to volunteer for induction. This program permits a registrant with a remedial defect to volunteer for induction and have his defect corrected while serving in the armed forces.

2. If the registrant desires to volunteer for induction, a notation will be made on the SSS Form 225, his medical records will be retained and the AFEES will submit a MREP waiver request to the Surgeon General of the Army for final determination of acceptability.

a. When the registrant's local board receives from the AFEES his DD Form 62 with a statement thereon "Qual for MREP", following the final determination of acceptability, it shall mail the registrant's copy of the DD Form 62, SSS Form 220 and a letter to the registrant inquiring as to whether he desires to complete an Application for Voluntary Induction (SSS Form 254). See sample letter Attachment 628–5. The registrant will have 15 days from the date the letter was mailed to indicate if he does or does not wish to volunteer. When the registrant returns the letter the following will be accomplished:

(1) If the registrant indicates he wishes to complete the Application for Voluntary Induction (SSS Form 254), the local board will mail the SSS Form 254 to the registrant, giving him 15 days in which to return the form. Upon receipt of the form, the local board shall order the registrant to report for induction on the next available induction call.

(2) If the registrant indicates on the letter he does not wish to volunteer for induction, or fails to return the form within the 15 days allotted, the local board shall request the return of his medical records from the AFEES. Upon receipt of the medical records and a DD Form 62 indicating the registrant is unacceptable for military service the local board shall consider him for Class 4–F.

b. When the registrant's local board receives from the AFEES his medical records and a DD Form 62 indicating the request for a MREP waiver has been denied, it shall inform the reigstrant of the denial of his waiver request, forward to him his copy of DD Form 62 with the SSS Form 220, consider him for Class 4–F, and make appropriate entries of the actions taken on page 8 of the SSS Form 100, or page 2 of the SSS Form 101, and on the SSS Form 102.

Section 628.18 *Symbols Describing Physical, Mental and Administrative Qualifications of Registrants.* 1. Purpose: The purpose of this section is to provide for the use of a system of symbols to describe and record the physical, mental, and administrative qualifications of registrants, without regard to their current classification, to contribute to the national interest as a member of the Armed Forces of the United States or in a civilian capacity.

2. Composition of XYZ Symbol.

a. A symbol is prescribed consisting of three elements describing each registrant's physical (medical), mental, and administrative qualifications in that sequence and using the letters "X", "Y" and "Z" to describe degrees of qualification in each element.

b. Each element of the symbol is completed by use of the letter "X", "Y" or "Z", whichever is appropriate in the case of the registrant being evaluated. When used as an element of the symbol, the significance of each letter with resepct to that element is as follows:

(1) "X" indicates that the registrant is currently qualified for service in the armed forces.

(2) "Y" indicates that the registrant may be acceptable for service in the armed forces in time of war or national emergency declared by the Congress.

(3) "Z" indicates that the registrant is unacceptable for any service in the armed forces.

3. Interpretation of Symbol

a. Use of the letter "X" in all three elements of the symbol indicates that the registrant is currently acceptable for service in the armed forces. At present only a registrant with the symbol "X–X–X" is so qualified.

b. Use of the letter "Y" in one or more elements of the symbol with or without an "X" in any of the other elements, but without a "Z" in any element, indicates that the registrant may be acceptable for service in the armed forces in time of war or national emergency declared by the Congress. For example, "Y–X–X".

c. A symbol with the letter "Z" appearing in one or more of the three elements indicates that the registrant is unacceptable for any service in the armed forces. For example, "X–X–Z".

4. Determination of Symbol: The AFEES are entering symbols on the upper right-hand corner of the Report of Medical Examination (SF–88) in the following order:

a. Physical (Medical) Element:

(1) If all entries on SF–88 specify that the registrant is physical profile 1 or 2, the first element will be "X".

(2) If any entry on the SF–88 specifies that the registrant is physical profile 3, the first element will be "Y".

(3) If any entry on the SF–88 specifies that the registrant is physical profile 4, the first element will be "Z".

b. Mental Element:

(1) If the registrant is AFQT Mental Group 1, 2 or 3, or "Administratively Accepted", the second element will be "X".

(2) If the registrant is AFQT Mental Group 4, the second element will be "X" unless he has been determined "Nonqualifying" because of "Trainability Limited" or "Failed AQB". In the latter case the second element will be "Y".

(3) If any entry on the SF–88 specifies that the registrant is mental group 5, the second element will be "Z".

c. Administrative Element:

(1) If the registrant has no court adjudication or conviction, or he has had a court adjudication or conviction but a waiver is granted, the third element will be "X".

(2) If the registrant has had a court adjudication or conviction and a waiver has not been granted or processed, the third element will be "Y" unless the registrant has com-

mitted serious offenses and has a history of habitually delinquent behavior.

(3) If the registrant has had a court adjudication or conviction and a waiver has not been granted or processed, and the registrant has committed serious offenses or has a history of habitually delinquent behavior which would disqualify him for service in the armed forces in any emergency, or if he is administratively disqualified, the third element will be "Z".

5. Determination of Symbol When Registrant Has Not Been Examined:

a. The local board shall determine a symbol for a registrant who has been found disqualified by AFEES without an armed forces examination.

b. Any doubt which the local board may have as to whether a registrant qualifies for a "Y" or a "Z" in any element of the symbol shall always be resolved in favor of the "Y".

c. A registrant's physical condition includes any mental disease or disorder he may be suffering. The second element of the symbol relates solely to the registrant's mental capacity and does not include any mental disease or abnormality.

6. Recording of Symbol:

a. The symbol shall be recorded on the Registrant File Folder (SSS Form 101) and on SSS Form 220, if prepared.

b. The symbol shall not, under any circumstances, be added to a registrant's classification or be placed on any document other than those mentioned in subparagraph a, above. The determination of the symbol is not subject to appeal.

c. In cases where a registrant has been determined not acceptable based on a partial examination by AFEES, and "X", "Y", or "Z" will be shown for the parts of the examination completed and an "O" shown in all remaining boxes. An "O" entry will require an "Y" or "Z" entry in at least one other element.

7. Changing of Symbol: Whenever a local board receives a new determination from an AFEES which warrants a change in any element of a registrant's symbol, the entry on the file folder shall be revised accordingly. The local board shall not alter symbols designated by the AFEES. If a discrepancy is found, the papers shall be returned to the AFEES for correction.

8. Profile System (PULHES): The major aspects of a registrant's physical fitness are identified by the letters PULHES: The PULHES chart is located on the last page of the SF-88. Each section of the chart is rated numerically (1 through 4) by the AFEES. (See example below)

PULHES
111111

The Army Regulations on physical standards and physical profiling (AR 40-501), defines the separate factors comprising PULHES as follows:

P—Physical capacity or stamina: Organic defects, age, build, strength, stamina, height, weight, agility, energy, muscular coordination, and similar factors.

U—Upper extremities: Functional use of hands, arms, shoulder girdle, and spine (cervical, thoracic, and lumbar) to include strength, range of motion, and general efficiency.

L—Lower extremities: Functional use, strength, range of motion, and general efficiency of feet, legs, pelvic girdle, and lower back (sacral spine).

H—Hearing (including ear defects): The auditory acuity is to be considered as well as organic defects.

E—Eyes: Visual acuity, as well as organic ocular defects.

S—Neuropsychiatric: Emotional stability, personality, as well as psychiatric history and findings.

The numerical rating is defined as follows:

1—High level of medical fitness.

2—Individual meets procurement standards, but may have some limitation on initial MOS classification and assignment.

3—Individual has a medical condition or physical defect which requires certain restrictions in assignment. Such individuals are not acceptable in time of peace, but may be acceptable in time of partial, or total mobilization.

4—Individual has a medical condition or physical defect which is below the level of medical fitness for retention in the military service.

SAMPLE TRANSMITTAL LETTER TO AFEES FOR "PAPERS ONLY" EVALUATION

(Local Board Stamp)

Date of Mailing:

TO: Commander
Armed Forces Examining and Entrance Station

Attached is medical documentation in support of a claim for disqualification from military service received from:

(Name of Registrant)

(Selective Service Number)

☐ Registrant has not been previously examined.

☐ Registrant has been previously examined and found acceptable. Attached are all documents relating to this registrant's previous examination.

Please advise this local board of the results of your evaluation and return all documents submitted with this letter.

Authorized Signature

Attachment.

SAMPLE LETTER REGARDING DISQUALIFYING CONDITION OR DEFECT

(Local Board Stamp)

Date of Mailing:

TO:
ADDRESS:

SSN:

DEAR SIR:

Your claim of a disqualifying condition or defect was referred to the Armed Forces Examining and Entrance Station (AFEES) for evaluation. They determined that you were not disqualified and the reason for this is checked below:

☐ Documentation indicates that the condition or defect is not considered disqualifying for military service.

☐ Documentation was deemed insufficient for the purpose of determining physical qualifications for military service.

☐ If you have not previously been examined: Should you later be within a group of registrants who will be processed for induction, you will be ordered to report for a preinduction armed forces examination. Your acceptability for military service will be determined by the AFEES at the time of your examination.

☐ If you have previously been examined and found acceptable:

The above determination by the AFEES constitutes their evaluation of the new information and documentation which you submitted in support of your claim for disqualification. Any further determination from the AFEES will be made at the time you are forwarded for induction.

If you have a question concerning your status, please contact this local board.

Authorized Signature

SAMPLE LETTER REGARDING RBJ

(Local Board Stamp)

Date of Mailing:

TO:
ADDRESS:

SSN:

DEAR SIR: You have been found unacceptable for induction into the armed forces based on a determination made on -------- ---------- However, it has been recommended that you be re-examined in ------ months, as your basis for disqualification may have changed sufficiently by that time to qualify you for service.

If you are classified in an available class (1-A, 1-A-O, or 1-O) or 1-H, you will not be classified into Class 4-F until you have been finally determined to be not qualified for induction, or until it is determined you will not be re-examined.

If you are in a deferred classification you will be continued in such classification: (1) As long as you are eligible for deferment, (2) until a final determination as made regarding your acceptability for induction, or (3) until it is determined you will not be re-examined.

If you have a question concerning your status, please contact this local board.

Authorized Signature

SAMPLE LETTER TO MEDICAL SPECIALIST REGARDING TRAVEL BY PRIVATE AUTO FOR ARMED FORCES EXAMINATION AND WAIVER REQUEST

(Local Board Stamp)

Date of Mailing:

TO:
ADDRESS:

SSN:

DEAR SIR: This will inform you that you may travel by private automobile to the Armed Forces Examining and Entrance Station (AFEES) for your armed forces examination if you so desire, provided that you sign and return the waiver shown below.

If you have any questions concerning this, please contact this local board.

Authorized Signature

WAIVER

Date

I desire to travel to and from the AFEES for my armed forces examination via private automobile or other private conveyance and do hereby relieve the Selective Service System and/or any element or employee thereof from any liability incurred thereby.

Signature of Registrant

SAMPLE LETTER FOR REGISTRANT QUALIFIED FOR MREP

(Local Board Stamp)

Date of Mailing:

TO:
ADDRESS:

SSN:

DEAR SIR:

At your recent armed forces examination, you were found to be unacceptable for military service due to a medical condition that qualifies you for corrective treatment under the Medical Remedial Program should you choose to volunteer for induction.

Please contact this local board if you wish to volunteer for induction and we will be pleased to send you an application for Voluntary Induction (SSS Form 254) which you may fill out and return.

If you have any questions regarding this, please contact this local board.

Authorized Signature

SAMPLE LETTER FOR REGISTRANTS REQUESTING REVIEW OF ACCEPTABILITY FOR MILITARY SERVICE

(Local Board Stamp)

Date of Mailing:

TO:
ADDRESS:

SSN:

DEAR SIR: This will acknowledge your recent request for a review of your acceptability for military service following completion of your armed forces examination.

You will be afforded a review of your status at the Armed Forces Examining and Entrance Station at the time you are forwarded for induction. Any medical documentation submitted with your request will be forwarded to the Armed Forces Examining and Entrance Station (AFEES) at the time you are ordered for induction. If you have any additional information or medical documentation, you should take it with you and present it to the personnel at AFEES at the time you report.

Authorized Signature

DEPARTMENT OF THE ARMY

ARMED FORCES EXAMINING AND ENTRANCE STATION

Inclosed medical documentation received on behalf of Mr. _____, Selective Service No. _____ has been evaluated.

( ) The condition(s) described is not considered as obviously disqualifying for military service.

( ) The documentation is not deemed sufficient for the purpose of determining physical qualifications for military service.

Sincerely,

LOCAL BOARD NO. 10
100 N. Pitt ST.
SUITE 207
ALEXANDRIA VA., 22314
(Local Board Stamp)

SELECTIVE SERVICE SYSTEM
PHYSICAL EXAMINATION LIST

Approval Not required.

Sheet No. 1 of 1 sheets

NOVEMBER 20, 1972
(Date of delivery)

TO: COMMANDING OFFICER, ARMED FORCES EXAMINING and ENTRANCE STATION
OLD PARCEL POST BLDG., 11th & MAIN STREETS
P.O. BOX 3M, RICHMOND, VA. 23206

Call No. 275

The registrants herein listed, except as otherwise noted, have been selected by this local board for armed forces physical examination and were forwarded on NOVEMBER 20, 1972 (Date) by XYZ TRANSIT SYSTEM (Name of carrier)

NUMBER LISTED FROM THIS BOARD	NUMBER LISTED ON TRANSFER IN	TOTAL NUMBER FORWARDED
10	1	11

	(1) SELECTIVE SERVICE NO.				(2) NAME (Last) (First) (Middle Initial)	(3) DISPOSITION: FOUND QUALIFIED	FOUND NOT QUALIFIED: Administrative	Temporarily limited	Failed AFQT Only	Failed AFQT and Medical	Failed Medical Only	Failed to Report	(4) REMARKS
1	44	10	52	150	BELL, Thomas L. (72)005								
2	44	10	52	38	HASLET, Charles A. (72)021								
3	44	10	52	153	PRESER, Ira W. (72)048								TRANSFERRED TO N.C. L.B. 55
4	44	10	52	137	MAHER, Dan D. (72)063								
5	44	10	52	164	UPTON, Mark P. (72)069								
6	44	10	53	51	HUNT, Frank R. (73)022								
7	44	10	53	98	MEDICI, Tony W. (73)033								
8	44	10	53	72	SORA, Irvin B. (73)048								
9	44	10	53	189	SCHNEIDERMANN, Wolfgang F. (73)057								
10	44	10	53	108	SMITH, Paul C. (73)057								
11	33	49	52	946	BUTLER, Roys (72)050								TRANSFER FROM OHIO L.B. 49
12													
13													
14													
15													
					TOTALS (Enter on last sheet only)								

Josephine Morris
(Member, Executive Secretary, or Clerk of local board)

NOVEMBER 1, 1972
(Date of preparation)

(Signature of C.O. AFEES)

(Grade and organization)

(Date of return to local board)

SSS Form 225 (Rev. 8-12-70-65)

(MAR 18, 1974)

Temporary Instruction No. 619-3

Issued: March 8, 1974.

Subject: Termination of Accountability for Registrants Born in 1948, 1949, 1950, and 1951.

1. Termination of accountability and destruction of Registrant File Folders for registrants born in 1948 shall continue, during CY 1974, in accordance with the provisions of Chapter 619, RPM.

2. Arrangements have been made to transfer the custody of the file folders of most registrants born in 1949, 1950, and 1951, to the Federal Records Centers (FRC). These actions shall be completed by June 30, 1974. The FRC will automatically destroy these files after the registrants reach age 26. State Directors have been authorized to issue instructions to the local boards in their states regarding the file transferral procedures to be followed.

3. At the time files are designated by a compensated employee to be forwarded to the FRC, an entry will be made in the first available space to the right of the last classification entry on the Classification Record (SSS Form 102), to read "File forwarded to FRC".

4. Registrants whose files are transferred to the FRC will be shown on the SSS Form 116 as dropped from accountability. The records will remain available to the Selective Service System, which retains jurisdiction over them.

5. No reclassification action will be taken after a registrant is dropped from accountability; and information regarding a registrant that is received by the local board after his file has been transferred to the FRC shall be returned to the registrant using letter format shown on the attachment (Form Letter 619-2), or, if nonreturnable, shall be destroyed. The above does not apply when a registrant's file is to be retrieved or reestablished and accountability restored. Inquiries from registrants whose files have been transferred shall be acknowledged, and the information supplied, if available at the local board.

This Temporay Instruction will terminate upon publication of the revision to Chapter 619 of the RPM.

JOHN D. DEWHURST,
Deputy Director.

Local Board Stamp

Date of Mailing:

TO:

ADDRESS:

SSN:

DEAR SIR: This will acknowledge receipt of information or material submitted for inclusion in your Selective Service file. Because custody of your file has been transferred to the Federal Records Centers (FRC), the information or material is returned to you as it is not required by the Selective Service System.

Authorized signature

Enclosure.

[FR Doc.74-7404 Filed 4-2-74;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 March 29, 1974 (44 U.S.C. 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

FEDERAL ENERGY ADMINISTRATION

Project Conserve Questionnaire, Form ----, Single time, Sunderhauf, Households in Danbury, Conn., and Topeka, Kansas.

U.S. CIVIL SERVICE COMMISSION

USCSC Survey Guide Classification and Pay Practices Study, GS 14-18 Equivalent Positions, Form ----, Single time, EDLR/Raynsford, About 200 of country's largest and medium size firms.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service, Quality Control Manual, Form SRS APA 341, Semiannual HRD/Sunderhauf, Welfare recipients.

SELECTIVE SERVICE SYSTEM

SSS Report of Information, Form SSS 119, Occasional, Lowry, Registrants with SSS.

EXTENSIONS

NATIONAL SCIENCE FOUNDATION

Higher Education Panel, Form ----, Occasional, Planchon, Institution of higher education.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-7865 Filed 4-2-74;12:28 pm]

TARIFF COMMISSION

[332-70]

CERTAIN CHAPTERS OF DRAFT CONVERSION OF TARIFF SCHEDULES OF UNITED STATES INTO FORMAT OF BRUSSELS TARIFF NOMENCLATURE

Public Notice of Hearings

The U.S. Tariff Commission hereby gives notice that preliminary drafts of the following chapters of the Tariff Schedules of the United States (TSUS) converted to the format of the Brussels Tariff Nomenclature (BTN):

Chapter 3: Fish, crustaceans and molluscs;

Chapter 13: Raw vegetable materials of a kind suitable for use in dying or in tanning; lacs; gums, resins and other vegetable saps and extracts;

Chapter 14: Vegetable plaiting and carving materials; vegetable products not elsewhere specified or included;

Chapter 17: Sugars and sugar confectionery;

Chapter 22: Beverages, spirits and vinegar;

Chapter 41: Raw hides and skins (other than furskins) and leather;

Chapter 42: Articles of leather, saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silk-worm gut);

Chapter 43: Furskins and artificial fur, and manufactures thereof;

Chapter 64: Footwear, gaiters and the like; parts of such articles;

Chapter 71: Pearls, precious and semi-precious stones, precious metals, rolled precious metals, and articles thereof; imitation jewelry.

are being released today and that public hearings thereon will begin at 10 a.m., e.d.t., on April 29, 1974, in Court Room Number 2, Fourth Floor, Room 461, U.S. Customs Courthouse, 1 Federal Plaza, New York, New York 10007. The purpose of this hearing is to obtain the comments and views of interested parties on the preliminary draft conversion.

Requests to appear at the hearings on these chapters must be filed in writing with the Secretary of the Commission not later than April 22, 1974. Parties who have properly entered an appearance by this date will be individually notified of the date on which they are scheduled to appear. Such notice will be sent as soon as possible after April 22, 1974. Any person who fails to receive such notification by April 25, 1974, should immediately communicate with the Office of the Secretary of the Commission.

In its public notice issued March 8, 1974, regarding hearings on other chapters of the draft converted schedules (39 FR 9719 of March 13, 1974) interested parties were notified regarding the rules governing the conduct of the hearings, and the submission of written statements. The Commission's notice of March 8, 1974, applies to the hearings on the chapters being released today to the extent that it is applicable.

As each of the chapters is completed and released, copies thereof are made available for public inspection at the Offices of the Commission in Washington, D.C., and New York, New York; at all field offices of the Department of Commerce; and at the offices of Regional and District Directors of Customs. The locations of these offices are listed in the notice of March 8, 1974.

By order of the Commission.

Issued: March 29, 1974.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.74-7684 Filed 4-2-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 478]

ASSIGNMENT OF HEARINGS

MARCH 29, 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-F-11931, Schuster Express, Inc.—Purchase (Portion)—Saben Delivery Corp., now being assgned hearing May 7, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 1668 Sub-5, Riteway Express, Inc., now being assigned June 17, 1974 at New York, N.Y., in a hearing room to be later designated.

MC-F-12056, Garrett Freightlines, Inc.—Purchase (Portion)—Lyman Truck Line, and MC 263 Sub 204, Garrett Freightlines, Inc., now being assigned hearing July 8, 1974 (2 weeks), at the Del Webb's Towne House, 100 West Clarendon, Phoenix, Arizona.

MC 126034, Sub-Nos. 1, 3, & 4, Bucks County Construction Co., now assigned April 4, 1974, at Washington, D.C., is postponed to June 18, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-124211 Sub 232, Hilt Truck Line, Inc., now assigned June 3, 1974, at Chicago, Ill., is cancelled and the application is dismissed.

MC-117610-Sub 11, Berrico Trucking Corp., now assigned April 8, 1974, at New York, N.Y., is cancelled and transferred to Modified Procedure.

MC 130215, Marie Louise McEnvoy, Dba Household Moving Service, now assigned April 15, 1974, MC 107583 Sub 54, Salem Transportation Co., Inc., now assigned April 17, 1974, at New York, N.Y., will be held in Court Room, U.S. Customs Court, One Federal Plaza.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-7674 Filed 4-2-74;8:45 am]

[No. AB-6 (Sub-No. 20)]

BURLINGTON NORTHERN, INC.

Abandonment of Line

Upon consideration of the record in the above-entitled proceeding and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy

Act of 1969, 42 U.S.C. § 4321 et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and is hereby, directed to publish the appended notice in a newspaper of general circulation in Clay County, Minn., within 15 days of the date of service of this order, and certify to this Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 26th day of March 1974.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD, *Secretary.*

INTERSTATE COMMERCE COMMISSION

[No. AB-6 (Sub-No. 20)]

BURLINGTON NORTHERN, INC., ABANDONMENT BETWEEN DOWNER AND GLYNDON, IN CLAY COUNTY, MINN.

The Interest Commerce Commission hereby gives notice that by order dated March 26, 1974, it has been determined that the proposed abandonment of the line of Burlington Northern Inc., between Downer and Glyndon, Clay "County", Minn., a distance of approximately 9.38 miles, if approved by the Commission, would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environment Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, (1) that there are no shippers on the involved line which will be affected by the proposed abandonment, (2) the bridge traffic formerly routed over this line is presently transported over alternate lines of the applicant, (3) the points of Downer and Glyndon will continue to be served by Burlington Northern, and (4) the abandonment will not be inconsistent with local land use plans. The determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available for public inspection upon request at the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-6989.

Interested parties may comment on this matter by the submission of representations to the Interstate Commerce Commission, Washington, D.C. 20423, on or before April 18, 1974.

[FR Doc.74-7672 Filed 4-2-74;8:45 am]

[No. MC-F-11043; No. MC-120526 (Sub-No. 2)]

COLONIAL MOTOR FREIGHT LINE, INC. AND GRIGGS TRUCKING CO.

Approval of Merger

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D.C., on the 21st day of February 1974.

Investigation of the matters and things involved in this proceeding having been made, and the said division, on the date hereof, having made and filed a report containing its findings of fact and conclusions thereon, which report together with the report of the Administrative Law Judge is made a part hereof:

It is ordered, That in No. MC-F-11043, acquisition by Colonial Motor Freight Line, Inc., of control of Griggs Trucking Company, through purchase of capital stock; merger of the operating rights and property of the latter into the former for ownership, management, and operation; and acquisition by A. L. Honbarrier of control of the operating rights and property through the transaction, upon said terms and conditions, be, and they are hereby, approved and authorized.

It is further ordered, That, upon consummation of the transaction authorized in No. MC-F-11043, and upon compliance with the conditions hereinafter stated, issuance to Griggs Trucking Company, in No. MC-120526 (Sub-No. 2) of a certificate of public convenience and necessity authorizing operations as a motor common carrier, in interstate or foreign commerce, of new furniture, over irregular routes, between Chesterfield, Dillon, Florence, Kershaw, Lancaster, Lee, Marion, Marlboro, Orangeburg, Sumter, and Williamsburg Counties, on the one hand, and, on the other, all points in South Carolina, be, and it is hereby, approved and authorized; *Provided, however,* that applicants submit for the approval of this Commission an amended purchase agreement in conformity with the transactions authorized herein; and that, except to the extent granted herein, the application in No. MC-120526 (Sub-No. 2) be, and it is hereby denied.

It is further ordered, That if the parties to the transaction desire to consummate the same, they shall (1) promptly take such steps as will insure compliance with sections 215, 217, and 221(c) of the Interstate Commerce Act, and with the rules, regulations, and requirements thereunder, and (2) confirm, in writing, to the Commission, immediately after consummation, the date on which consummation has actually take place.

It is further ordered, That since the authority granted differs from the notice published in the FEDERAL REGISTER, a supplemental notice is required to be published, and the effective date of this order will be deferred; and if any persons have an interest in, or would be prejudiced by, the grant of authority to the extent set forth in the appendix hereto, they may file an original and six copies of petition or other pleading on or before May 3, 1974, with appropriate service on applicants; and that such petition, if any, should set forth the precise manner in which they have been prejudiced by the grant of authority herein.

It is further ordered, That if the authority herein granted is exercised, Colonial Motor Freight Lines, Inc., shall submit for consideration a sworn statement and one copy thereof, hereby required within 60 days after consummation of the transaction, showing all expenditures made, by dates, or to be made, in connection with the transaction authorized, including the consideration, legal and other fees, commissions, and any other costs incidental to the transaction, the assets acquired and liabilities assumed, indicating the account number and title to which each item has been, or is to be, debited or credited;

It is further ordered, That this order shall be effective on the date it is served; and

It is further ordered, That the authority granted herein shall not be exercised prior to the effective date, and that this order shall not be effective until 35 days after notice is published in the FEDERAL REGISTER.

By the Commission, Division 3.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-7671 Filed 4-2-74;8:45 am]

[Notice 12]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MARCH 29, 1974.

The following letter-notices of proposals (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), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-2202 (Deviation No. 127), ROADWAY EXPRESS, INC., P.O. Box 471, Akron, Ohio 44309, filed March 21, 1974. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Chicago Heights, Ill., over U.S. Highway 30 to junction Interstate Highway 57, thence over Interstate Highway 57 to junction Interstate Highway 55, thence over Interstate Highway 55 to Memphis, Tenn., and return over the same route, for operating convenience only. The notice indicates that the car-

rier is presently authorized to transport the same commodities over a pertinent service route as follows: From Chicago Heights, Ill., over U.S. Highway 30 to junction U.S. Highway 41, thence over U.S. Highway 41 to junction U.S. Highway 52, thence over U.S. Highway 52 to Indianapolis, Ind., thence over U.S. Highway 31 to junction U.S. Highway 31W, thence over U.S. Highway 31W to Nashville, Tenn., thence over U.S. Highway 70 to Memphis, Tenn., and return over the same route.

No. MC-30319 (Sub-No. 65) (Deviation No. 3), SOUTHERN PACIFIC TRANSPORT COMPANY OF TEXAS AND LOUISIANA, 1517 West Front Street, Tyler, Texas 75701, filed March 22, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From El Campo, Tex., over Texas Highway 71 to junction Texas Highway 35 and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From El Campo, Tex., over U.S. Highway 59 to Wharton, Tex., thence over Texas FM 1301 to Boling, Tex., thence over Texas FM 1728 to junction Texas Highway 35, thence over Texas Highway 35 to junction Texas Highway 71, and return over the same route.

No. MC-30319 (Sub-No. 65) (Deviation No. 4), SOUTHERN PACIFIC TRANSPORT COMPANY OF TEXAS AND LOUISIANA, 1517 West Front Street, Tyler, Texas 75701, filed March 22, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Wharton, Tex., over Texas Highway 60 to Bay City, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Wharton, Tex., over Texas FM 1301 to Boling, Tex., thence over Texas FM 1728 to junction Texas Highway 35, thence over Texas Highway 35 to Bay City, Tex., and return over the same route.

No. MC-75320 (Deviation No. 48), CAMPBELL "66" EXPRESS, INC., P.O. Box 807, Springfield, Missouri 65801, filed March 19, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Tulsa, Okla., over U.S. Highway 75 to junction Interstate Highway 40, thence over Interstate Highway 40 to Oklahoma City, Okla., thence over Interstate Highway 35 and Interstate Highway 35W to Fort Worth, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Tulsa, Okla., over Interstate Highway 44 to junction Oklahoma Highway 18, thence over Oklahoma Highway 18 to junction U.S. Highway 177, thence over U.S. Highway 177 to junction U.S. Highway 70, thence over U.S. Highway 70 to junction Oklahoma Highway 79, thence over Oklahoma Highway 79 to the Oklahoma-Texas State line, thence over Texas Highway 79 to Wichita Falls, Tex., thence over U.S. Highway 281 to junction U.S. Highway 180 at or near Mineral Wells, Tex., thence over U.S. Highway 180 and 80 (and Interstate Highway 20) to Fort Worth, Tex., and return over the same route.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON, *Acting Secretary.*

[FR Doc.74-7678 Filed 4-2-74;8:45 am]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MARCH 29, 1974.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by the new Special Rule 1100 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIERS OF PROPERTY

TRANSFER APPLICATIONS CONSOLIDATED FOR HANDLING

Nos. MC-FC-74937, MC-FC-74948, and MC-FC-74949. (CORRECTION). These applications were published in the FR issue of March 22, 1974, and are republished in part in this issue. The applications have been assigned for handling on a consolidated record with the applications under Section 5 of the Act in Nos. MC-F-12100 and MC-F-12105 which were published in the FR issue of January 23, 1974.

Note: The purpose of this republication is to show the correct docket number and date of publication of the related applications under section 5.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON, *Acting Secretary.*

[FR Doc.74-7670 Filed 4-2-74;8:45 am]

[Notice 25]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MARCH 29, 1974.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by the new special rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 112822 (Sub-No. 279) (REPUBLICATION), filed June 13, 1973, and published in the FR issue of August 2, 1973, and republished this issue. Applicant: BRAY LINES, INC., P.O. Box 1191, 1401 N. Little Street, Cushing, Okla. 74023. Applicant's representative: Marion F. Jones, Suite 160, Lincoln Center, 1600 Lincoln Street, Denver, Colo. 80203. An Order of the Commission, Operating Rights Board, dated February 22, 1974, and served March 20, 1974, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from points in Minnesota (except points in the Minneapolis-St. Paul, Minn., Commercial Zone) and points in Wisconsin to the plantsite and the warehouse facilities utilized by Kraft Foods at Springfield, Mo., and Dallas and Garland, Tex., restricted to the transportation of traffic originating at the above-named origins and destined to the above-named destinations; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for interven-

tion or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 130193 (REPUBLICATION), filed January 31, 1973, and published in the FR issue of February 23, 1973, and republished this issue. Applicant: TRANS-AMERICA RECEPTION AND TOUR SERVICE, INC., 274 Madison Avenue, New York, N.Y. 10016. Applicant's representative: David A. Sutherland, 2001 Massachusetts Avenue NW., Washington, D.C. 20036. An Initial Decision served February 11, 1974, and the subsequent Order of the Commission, dated March 13, 1974, and served March 25, 1974, finds that operation by applicant at New York, N.Y., as a *broker* of transportation by motor vehicle, in interstate or foreign commerce, of *passengers and their baggage*, in all-expense tours, in special or charter operations, between points in the United States (including Alaska and Hawaii), restricted to making arrangements for persons having a prior movement in foreign commerce by air or water; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a license in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 138626 (REPUBLICATION), filed April 9, 1973, and published in the FR issue of August 16, 1973, and republished this issue. Applicant: LESLIE OAKLEY, JR. AND BARRY OAKLEY, doing business as OAKLEY BROTHERS TRUCKING, Fairfield, Mont. 59436. Applicant's representative: L. D. Nybo, 529 Great Falls National Bank Bldg., Great Falls, Mont. 59401. An order of the Commission, dated February 22, 1974, and served March 20, 1974, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *plastic, aluminum, and steel irrigation pipe and wheel line sprinklers*, from Eugene, Portland, and Clackamas, Oreg., Tacoma, Seattle, and Spokane, Wash., and Boise, Idaho to points in Montana; that applicant is fit, willing, and able properly to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate that the service authorized is that of a common carrier in lieu of a contract carrier as previously published. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 63535 (NOTICE OF FILING OF PETITION TO MODIFY A TERRITORIAL DESCRIPTION), filed January 15, 1974. Petitioner: SPENCER PAPE, INC., 15 Linden Avenue, East Jersey City, N.J. 07305. Applicant's representative: George A. Olsen, 69 Tonnelle Avenue, Jersey City, N.J. 07306. Petitioner holds a motor *common carrier* certificate in No. MC 63535, issued June 20, 1972, authorizing transportation, over irregular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between points in that part of New Jersey and New York within 30 miles of Columbus Circle, New York, N.Y. By the instant petition, petitioner seeks to modify its territorial description to read: "between points in Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, Somerset and Union Counties, N.J., New York, N.Y. and points in Nassau, suffolk, Westchester, Rockland and Orange Counties, N.Y." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before May 3, 1974.

No. MC 103926 (Sub-No. 14) (NOTICE OF FILING OF PETITION TO REMOVE A RESTRICTION), filed March 14, 1974. Petitioner: W. T. MAYFIELD SONS TRUCKING CO., a Corporation, P.O. Box 947, Mableton, Ga. 30059. Petitioner's representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, NW., Washington, D.C. 20036. Petitioner holds a motor *common carrier* certificate in No. MC 103926 (Sub-No. 14) issued September 26, 1966, authorizing, transportation, over irregular routes, of *tractors* (except truck tractors) and *parts, implements, attachments, accessories and supplies therefor*, when moving incidentally thereto as a partof the same shipment (except commodities which because of their size or weight require the use of special equipment or handling), between points in Arkansas, North Carolina, South Carolina, Florida, Georgia, Tennessee, Alabama and Mississippi, restricted to traffic originating at and destined to points within the states described above. By the instant petition, petitioner seeks to delete the restriction "(except commodities which because of their size or weight require the use of special equipment or handling)". Any interested persons or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before May 3, 1974.

No. MC 115093 and Sub-No. 10 (CORRECTION) (NOTICE OF FILING OF PETITION TO AMEND EXISTING GATEWAY RESTRICTIONS), filed January 3, 1974, published in the FR issue of March 13, 1974 and republished, as corrected, this issue. Petitioner: MERCURY MOTOR EXPRESS, INC., P.O. Box 23406, Tampa, Fla. 33622. Petitioner's representative: Clayton R. Byrd (same address as petitioner). Petitioner holds motor *common carrier* certificates in No. MC 115093 issued April 11, 1968 and in Sub-No. 10 by Order of the Commission dated November 19, 1973, authorizing the transportation of *general commodities*, with the usual exceptions, (1) over various regular routes between points in Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, the District of Columbia and those points in New York on and south of New York Highway 7, on the one hand, and, on the other, points in Georgia and Florida via either (a) Mt. Olive, N.C. and points within 15 miles thereof or (b) points in Florence County, S.C.; and (2) over irregular routes, between points in North Carolina, Tennessee, Virginia, West Virginia, Pennsylvania, Maryland, Delaware, New Jersey, Rhode Island, Connecticut, Massachusetts, the District of Columbia and those points in New York on and south of New York Highway 7, on the one hand, and, on the other, points in Florida, Georgia and South Carolina via either (c) Mt. Olive, N.C. and points within 15 miles thereof or (d) points in Florence County, S.C.

By the instant petition, petitioner seeks (1) the elimination of the gateway restrictions for the regular routes as described in (a) and (b) above and (2) the elimination of the existing gateways for the irregular routes as described in (c) and (d) above, and the substitution therefor of the following restriction: "When on traffic from and to points in North Carolina, South Carolina and Tennessee, restricted to traffic moving via a point in an area bounded as follows: from the Atlantic Ocean along the North Carolina-Virginia State Boundary line to its junction with U.S. Highway 220, thence along U.S. Highway 220 to its junction with U.S. Highway 1, thence along U.S. Highway 1 to Augusta, Ga., thence along the Georgia-South Carolina State Boundary line to the Atlantic Ocean, and thence along the Atlantic Ocean to the point of beginning". The purposes of this republication are (1) to indicate the correct filing date; and (2) to indicate the entire restriction for 2(c) and (d), part of which was omitted from the previous publication. Any person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in

support of or against the petition on or before May 3, 1974.

No. MC 115452 (Sub-No. 2) (NOTICE OF FILING OF PETITION TO REMOVE AN INTERCHANGE RESTRICTION) filed March 19, 1974. Petitioner: HUSBAND TRANSPORT, LIMITED, 10 Centre Street, London, Ontario, Canada. Petitioner's representative: S. Harrison Kahn, 733 Investment Building, Washington, D.C. 20005. Petitioner holds a motor *common carrier* certificate in No. MC 115452 (Sub-No. 2) issued August 22, 1973, authorizing transportation, over irregular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between ports of entry on the International Boundary line between the United States and Canada at Buffalo and Niagara Falls, N.Y., on the one hand, and on the other, Buffalo and Niagara Falls, N.Y., solely for the purpose of interchanging traffic with connecting carriers, and restricted to the transportation of shipments moving to or from points in Canada. By the instant petition, petitioner seeks to remove the interchange restriction on its authority. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before May 3, 1974.

No. MC 124796 (Sub-Nos. 74, 83 and 91) (NOTICE OF FILING OF PETITION TO ADD A COMMODITY), filed March 11, 1974. Petitioner: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Avenue, P.O. Box 1257, City of Industry, Calif. 91747. Petitioner's representative: William J. Monheim (same address as petitioner). Petitioner holds motor *contract carrier* permits in No. MC-124796 (Sub-Nos. 74, 83 and 91), issued September 10, 1971, January 14, 1972 and December 26, 1973 respectively, authorizing transportation, over irregular routes, of, in Sub-No. 74 (1) *buffing, polishing, cleaning, scouring, and washing compounds and soap* (except in bulk), from Chicago, Ill., to Houston, Tex.; (2) *buffing, polishing, cleaning, scouring, and washing compounds, soap, and animal litter* (except in bulk), from Houston, Tex., to points in that part of Arkansas on and south of Interstate Highway 40, and points in Mississippi and Louisiana, under a continuing contract, or contracts, with Clorox Company of Oakland, Calif.; in Sub-No. 83 (3) *bleaching and cleaning compounds, and animal litter* (except commodities in bulk), from Los Angeles, Calif., to points in Arizona, under a continuing contract, or contracts, with The Clorox Company, of Oakland, Calif.; and in Sub-No. 91 (4) *buffing, polishing, cleaning, scouring, washing, and bleaching compounds, and animal litter* (except commodities in bulk and those requiring special equipment) (a) from the plant sites or facilities of The Clorox Company, located at Boston, Mass., to points in Connecticut, Maine, New Hampshire, Vermont and Rhode Island; (b) from the plant sites or facilities of The Clorox Company, located at Jersey City, N.J., to points in Connecticut, and New York; (c) from the plant sites or facilities of The Clorox Company, located at Charlotte, N.C., to points in South Carolina, Virginia, West Virginia and Tennessee; (d) from the plant sites or facilities of The Clorox Company, located at Chicago, Ill., to points in Kentucky, Indiana, Ohio, Michigan and Wisconsin; (e) from the plant sites or facilities of The Clorox Company, located at Tampa, Fla., to points in that part of Georgia, on and south of U.S. Highway 80; (f) from the plant sites or facilities of The Clorox Company, located at Los Angeles and Oakland, Calif., to points in Nevada, Utah, Oregon, Washington, Montana, Idaho and points in that part of Texas on and west of U.S. Highway 287 from the Oklahoma-Texas State line to Amarillo, thence along U.S. Highway 87 to San Angelo, and thence along U.S. Highway 277 to Del Rio; and (g) from the plant sites or facilities of The Clorox Company, located at Oakland, Calif., to points in Arizona, under a continuing contract, or contracts, with The Clorox Company. By the instant petition, petitioner seeks to add the commodity cooking oil to those commodities described in the Subs specified above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before May 3, 1974.

No. MC 134979 (Sub-No. 1) (CORRECTION OF A NOTICE OF FILING OF PETITION TO EXTEND OPERATIONS), filed February 19, 1974, published in the FR issue of March 13, 1974, and republished as corrected, this issue. Petitioner: DAGGETT TRUCK LINE, INC., Frazee, Minn. 56544. Petitioner's representative: James B. Hovland, 425 Gate City Building, Fargo, N. Dak. 51103. Petitioner holds a motor *contract carrier* permit in No. MC 134979 (Sub-No. 1) issued October 12, 1971, authorizing transportation, over irregular routes, of (1) *pie crusts*, in vehicles equipped with mechanical refrigeration, from the plantsite of Ready Italy, Inc. at or near Fargo, N. Dak., to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies* used in the manufacture and distribution of pie crusts (except in bulk), and *flour*, from points in the United States (except Alaska and Hawaii), to the plantsite of Ready Italy, Inc. at or near Fargo, N. Dak., under a continuing contract or contracts with Ready Italy, Inc. of Fargo, N. Dak.

By the instant petition, petitioner seeks to extend its existing operations by adding the following authority: "(1) *pet foods* (except commodities in bulk, in tank vehicles) from the plantsite and facilities of Tuffy's-Division of Star-Kist Foods, Inc. at or near Perham, Minn., to points in Minnesota, North Dakota, South Dakota, Iowa, Wisconsin, Nebraska, Montana, Illinois, Indiana and Missouri; (2) *materials, supplies and equipment* used in the packaging and sale of pet foods (except commodities in bulk, in tank vehicles) from points in Illinois, Indiana, Iowa, Minnesota, Missouri, Montana, Kansas, Nebraska, North Dakota, South Dakota and Wisconsin, to the plantsite and facilities of Tuffy's-Division of Star-Kist Foods, Inc. at or near Perham, Minn.; (3) *frozen animal and poultry feed and frozen feed ingredients*, from the origin points named in (2) above, to the destination points named in (2) above; and (4) *ingredients* used in the manufacture of pet foods (except commodities in bulk, in tank vehicles) from points in Minnesota, Wisconsin, Illinois, Indiana, California, Missouri, Nebraska (except those points east of U.S. Highway 81 and north of U.S. Highway 34), Iowa (except those on and west of U.S. Highway 59 and those on and north of U.S. Highway 18) and North Dakota (except those on and east of North Dakota Highway 1), to the destination point named in (2) above".

NOTE.—The purpose of this republication is to (a) clarify the destination points in applicant's requested modification in (1) above; and (b) add the destination point of South Dakota in applicant's requested modification in (2) above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before May 3, 1974.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 24379 (Sub-No. 39), filed March 7, 1974. Applicant: LONG TRANSPORTATION COMPANY, 3755 Central Avenue, Detroit, Mich. 48210. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), Serving all points in Ohio as off-route points in connection with presently authorized regular route operations at Medina, Ohio.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant seeks to purchase Certificate of Registration in MC-99661 Sub-3 from Medina-Cleveland Freight Line, Inc. This is a matter directly related to the section 5 purchase proceeding MC-F-12165 published in the FEDERAL REGISTER issue of March 20, 1974. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114818 (Sub-No. 15), filed February 21, 1974. Applicant: MOTOR CARGO, a Corporation, 455 West 4th South Street, Salt Lake City, Utah 84101. Applicant's representative: William S. Richards, 900 Walker Bank Building, P.O. Box 2465, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities* (except household goods, commodities in bulk, commodities which because of size or weight require the use of special equipment, and commodities of unusual value), (1) Irregular route: Between Reno, Nev., on the one hand, and, on the other, points in Nevada; and (2) Regular route: Beteen Reno, Nev., and Wells, Nev., serving all intermediate points, as follows: From Reno via U.S. Highway 40 (Interstate Highway 80) to Wells and return over the same route.

NOTE.—Applicant states that the requested authority can be tacked in Sub-No. 8 at the points in Nevada within the Wendover, Utah Commercial Zone to serve Salt Lake City, Utah also serving all intermediate and specified off-route points; and in Sub-No. 10 at the junction of Nevada Highway 30 and U.S. Highway 40 (near Oasis, Nev.) to serve the junction of U.S. Highway 30-S and Utah Highway 30 and at Wells, Nev., to serve Wendover, Utah and all intermediate points on U.S. Highway 40. The purpose of this application is to convert the Certificate of Registration to a Certificate of Public Convenience and Necessity and to convert a portion of said authority to regular route authority. This is a matter directly related to the section 5 purchase proceeding in MC-F-12150 published in the FEDERAL REGISTER issue of March 6, 1974. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah or Reno, Nev.

No. MC-F-11817. (Supplemental) (M R & R TRUCKING COMPANY—CONTROL — PERKINS FREIGHT LINES, INC.), published in the March 21, 1973, issue of the FEDERAL REGISTER on page 7431. The merger of Perkins Freight Lines, Inc., of Atlanta, Ga., into M R & R Trucking Company, of Crestview, Fla., subject to the present republication, was authorized by supplemental order of the Commission, Appellate Division 3, dated December 6, 1973, which modified the order of the Commission, Review Board 5, dated August 1, 1973, authorizing the acquisition by M R & R of control of Perkins through the exchange of M R & R stock for all the outstanding Perkins stock. The Commission, in the same order, also authorized the acquisition by W. Guy McKenzie, Sr., Carl E. Bjorklund, John E. McCaskill, and W. Guy McKenzie, Jr., of control of the operating rights and property of Perkins through the merger. The Interstate operating rights of Perkins to be merged into M R & R are those described in certificates issued in Nos. MC-66098, MC-66098 (Sub-Nos. 1 and 2), authorizing the transportation of general commodities, with certain exceptions, over regular routes, and specified commodities, over irregular routes, between designated points in Georgia.

No. MC-F-12174. Authority sought for continuance in control by JOHN E. DUGAN, Clearwater, KS, and TED J. TOON, 1210 Regal, Wichita, KS, of JAYHAWK TRUCK LINES, INC., 312 S. Mosley, Wichita, KS 67202. Applicants' attorney: Paul V. Dugan, 2707 W. Douglas, Wichita, KS. Operating rights sought to be controlled are those covered by Kansas Certificate No. 9416, for which a certificate of registration is sought in No. MC-136799 (Sub-No. 4), to operate as a motor common carrier for the transportation of: General commodities (with the usual exceptions), to, from and between Wichita, Kans., and Herington, Kans., and five (5) mile radius thereof and the intermediate points thereof and the intermediate points of Lincolnville, Lost Springs, Admire, Council Grove, Riley, Wilsey, Delavan, Hope, Elmo, Durham, Goessel, and Newton, Kans., and a five (5) mile radius therof; and the off-route points of Pilsen, Burdick, Ramona, Woodbine, Navarre, Enterprise, Carlton, Gupsum, Roxbury, and Tampa, Kans., and a five (5) mile radius thereof. Transferees are affiliated with Bern's Truck Line, Inc., Dugan Truck Line, Inc., Price Truck Line, Inc., and El Dorado Motor Freight, which are authorized to operate as common carriers under certificates of registration in Kansas. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12175. Authority sought for control and merger by ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309, of the operating rights and property of ATLAS TRANSIT, INC., 6101 Lindsey Rd., P.O. Box 707, Little Rock, AR 72203, and for acquisition by GALEN J. ROUSH, also of Akron, OH 44309, of control of such rights and property through the transaction. Applicant's attorney and representative: William O. Turney, 2001 Massachusetts Ave. NW., Washington, DC 20036, and Douglas W. Faris, P.O. Box 471, Akron, OH 44309. Operating rights sought to be controlled and merged: Under certificates of registration, in Docket Nos. MC-99695 (Sub-No. 1), and MC-99695 (Sub-No. 2), covering the transportation of general commodities, as a common carrier, in interstate commerce, within the state of Arkansas; and *general commodities*, as a *common carrier* over regular routes, between El Dorado, Ark., and the plantsite of Michigan Chemical Corporation south of El Dorado, Ark., serving no intermediate points, with restriction. Vendee is authorized to operate as a *common carrier* in Ohio, Texas, Oklahoma, Connecticut, Michigan, Missouri, Indiana, Massachusetts, Pennsylvania, Kansas, Illinois, Kentucky, Rhode Island, Alabama, Georgia, North Carolina, Tennessee, South Carolina, New Jersey, New York, Virginia, Wisconsin, Delaware, Maryland, West Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12176. Authority sought for control by ROBERT HEATH, P.O. Box 2501, Lubbock, TX 79408, of DIRECT SERVICE, INC., P.O. Box 786, Plainview, TX 79072. Applicant's attorney: Charles J. Kimball, 1600 Broadway, Suite 2310, Denver, CO 80202. Operating rights sought to be controlled: *Meats, meat products, and meat by-products*, and *articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, as a *common carrier* over irregular routes, from Plainview, Tex., to points in New Mexico, Colorado, Wyoming, California, Kansas, Oklahoma, Missouri, Arkansas, Louisiana, Tennessee, Mississippi, Georgia, New York, Massachusetts, Florida, Alabama, North Carolina, and South Carolina. ROBERT HEATH holds no authority from this Commission. However, he is affiliated with ROBERT HEATH TRUCKING, INC., P.O. Box 2501, Lubbock, TX 79408, which is authorized to operate as a *common carrier* in Mississippi, Texas, New Mexico, Arizona, Colorado, Louisiana, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12177. Authority sought for purchase by BEKINS MOVING & STORAGE CO., 1335 South Figueroa Street, Los Angeles, California, 90015, of the operating rights and property of BEKINS VAN & STORAGE COMPANY, 420 Bluff Street, Sioux City, Iowa, 51103, and for acquisition by THE BEKINS COMPANY, 1335 South Figueroa Street, Los Angeles, California, 90015, of control of such rights through the purchase. Applicant's attorneys: RUSSELL S. BERNHARD, 1625 K St. NW., Wash., D.C. 20006, and NORMAN S. MARSHALL, 1335 S. Figueroa St., L.A., CA., 90015. Operating rights sought to be transferred: *Articles* dealt in by retail furniture stores as a *common carrier* over irregular routes from Sioux City, Iowa, to points in Iowa, Minnesota, Nebraska, and South Dakota; and from points in Iowa, Minnesota, Nebraska, and South Dakota, to Sioux City, Iowa with restrictions. *Household goods* between points in Iowa and those in Nebraska and South Dakota within 50 miles of Sioux City, Iowa, *groundwood paper* (except in bulk), *newsprint*, and *printing paper*, as a *contract* carrier over irregular routes from Sioux City, Iowa, to points in Iowa, Minnesota, Nebraska, and South Dakota, with restrictions, *household goods* as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, as a broker between points in the United States.

Vendee is controlled by The Bekins Company which also controls a number of subsidiary corporations under the name Beking Moving & Storage Co., and holds authority to operate as a motor common carrier of household goods in Arizona, Hawaii, California, and Missouri among others. Some of the subsidiary companies controlled by The Bekins Company also hold license to act as broker of household goods between all points in the United States. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12178. Authority sought for purchase by DATTCO, INC., 99 Newington Ave., New Britain, CT 06051, of the operating rights and property of ROSE BUS SERVICE, INC., 10 Mansion Rd., Wallingford, CT 06492, and for acquisition by LOUIS DeVIVO, and EDWARD DeVIVO, also of New Britain, CT 06051, of control of such rights and property through the purchase. Applicants' attorneys: Samuel B. Zinder, 98 Cutter Mill Rd., Great Neck, NY 11021, and Paul Goldstein, 109 Church St., New Haven, CT. Operating rights sought to be transferred: Passengers and their baggage, restricted to traffic originating at the points indicated, in charter operations, as a common carrier over irregular routes, from Wallingford and Meriden, Conn., to points in New York, Massachusetts, New Jersey, Pennsylvania, and Rhode Island, and return; passengers consisting of school children and supervisory personnel and their baggage, in the same vehicle with passengers, in round-trip charter operations, beginning and ending with Cheshire, Conn., and extending to points in Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, New Hampshire, and Vermont. Vendee is authorized to operate as a common carrier in Connecticut, Massachusetts, New Jersey, New York, and Rhode Island. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-7676 Filed 4-2-74;8:45 am]

[Notice 53]

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 April 23, 1974. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74915. By order of March 28, 1974, the Motor Carrier Board, on reconsideration, approved the transfer to Philip Payne, R.R. #1, Macedonia, Ill. 62860, of Certificate No. MC-134451 issued December 16, 1970, to James A. Wilson, Eldorado, Ill., authorizing the transportation of passengers, in special operations, between Harrisburg, Eldorado, Norris City, Shawneetown, Equality, Ridgway, Omaha, New Haven, McLeansboro, Enfield, Carmi, and Crossville, Ill., on the one hand, and, on the other, Mount Vernon, Ind.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-7669 Filed 4-2-74;8:45 am]

[Notice 45]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 28, 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 14552 (Sub-No. 54 TA), filed March 21, 1974. Applicant: J. V. McNICHOLAS TRANSFER COMPANY, 555 West Federal Street, Youngstown, Ohio 44502. Applicant's representative: Paul F. Beery, 8 East Broad Street, 9th Floor, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles*, from the plantsite of Bethlehem Steel Corporation at Lackawanna, N.Y., to points in Illinois, Indiana, Ohio, and the Lower Peninsula of Michigan, for 180 days. RESTRICTION: Restricted to traffic originating at the plantsite of the Bethlehem Steel Corporation in Lackawanna, N.Y. SUPPORTING SHIPPER: Bethlehem Steel Corporation, Bethlehem, Pa. 18016. SEND PROTESTS TO: Franklin D. Bail, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 181 Federal Office Bldg., 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 26377 (Sub-No. 17 TA) filed March 19, 1974. Applicant: LEONARDO TRUCK LINES, INC., 511 South 1st Street, Selah, Wash. 98942. Applicant's representative: Ernest Marang (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and/or material, equipment and supplies* used in the food industry, between points in Yakima and Benton Counties, Wash., on the one hand, and, on the other, Seattle, Tacoma, Longview, and Vancouver, Wash. and Portland, Oreg., for 180 days. SUPPORTING SHIPPER: Welch Foods, Inc., P.O. Box 6067, Kennewick, Wash. SEND PROTESTS TO: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, Oreg. 97204.

No. MC 76032 (Sub-No. 306 TA) (AMENDMENT), filed February 29, 1974, published in the FEDERAL REGISTER issue of March 22, 1974, and republished as amended this issue. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: Eldon E. Bresee (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Wichita, Kans., and Oklahoma City, Okla., from Wichita over Interstate Highway 35 to Oklahoma City, and return over the same route, as an alternate route for operating convenience only in connection with carrier's regular route operations, for 180 days. TACKING AND INTERLINE: Applicant states that he does intend to tack or interline with his authority in MC-76032 (Sub-No. 110) and MC-120634 (Sub-No. 18). SUPPORTING SHIPPERS: There are approximately 24 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.

NOTE.—The purpose of this republication is to indicate applicant's tacking and interline information.

SEND PROTESTS TO: District Supervisor Roger L. Buchanan, Bureau of Operations, Interstate Commerce Commission, 2022 Federal Building, Denver, Colo. 80202.

No. MC 102567 (Sub-No. 168 TA), filed March 20, 1974. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane (P.O. Drawer 5357), Bossier City, La. 71010. Applicant's representative: Donald W. English (Same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rosin sizing*, in bulk, in tank vehicles, from Springhill, La., to Vicksburg, Miss., for 180 days. SUPPORTING SHIPPER: American Cyanamid Company, Division Traffic Manager—Andrew J. Gruter, Berdan Avenue, Wayne, N.J. 07470. SEND PROTESTS TO: Ray C. Armstrong, Jr., District Supervisor, Bureau of Operations, Room T-9038, U.S. Postal Service Bldg., 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 108340 (Sub-No. 26 TA), filed March 12, 1974. Applicant: HANEY TRUCK LINE, P.O. Box 485, Cornelius, Oreg. 97113. Applicant's representative: Lawrence V. Smart, J., 419 N.W. 23rd Avenue, Portland, Oreg. 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urea fertilizer*, in bags, from the plant site of Collier Carbon and Chemical Corp. at or near Portland, Oreg., on the one hand, and, on the other, points in Washington, for 180 days. SUPPORTING SHIPPER: Collier Carbon and Chemical Corp., P.O. Box 60455, Los Angeles, Calif. 90060. SEND PROTESTS TO: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, Oreg. 97204.

No. MC 112014 (Sub-No. 23 TA), filed March 20, 1974. Applicant: SKAGIT VALLEY TRUCKING CO., INC., 1417 McLean Road, Mount Vernon, Wash. 98273. Applicant's representative: Don B. Kohler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used agricultural machinery*, between points in Skagit and Whatcom Counties, Wash., on the one hand, and, on the other, Salem, Albany, Roseburg, Eugene, and Springfield, Oreg., for 180 days. SUPPORTING SHIPPERS: Kelly, Farquhar & Co., P.O. Box 1737, Tacoma, Wash. 98401; San Juan Islands Cannery, P.O. Box 459, LaConner, Wash. 98257; and Seabrook Farms Co., Inc., P.O. Box 313, Lynden, Wash. 98264. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 114552 (Sub-No. 97 TA), filed March 20, 1974. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 919 18th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel electrical conduit pipe*, from the plantsite and facilities of Jones & Laughlin Steel Corporation, at New Kensington, Pa., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, and South Carolina, for 180 days. SUPPORTING SHIPPER: Jones & Laughlin Steel Corporation, 700 Constitution Boulevard, New Kensington, Pa. 15068. SEND PROTESTS TO: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 302, 1400 Building, 1400 Pickens Street, Columbia, S.C. 29201.

No. MC 115841 (Sub-No. 469 TA), filed March 19, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., Off.: 1215 Bankhead Highway West (P.O. Box 10327) 35204, Birmingham, Ala. 35202. Applicant's representative: Roger M. Shaner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities utilized by Delicious Foods Co., at Omaha, Nebr., to points in Alabama, Arkansas, Georgia, Florida, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Iowa, Illinois, Indiana, Michigan, Ohio, Virginia, West Virginia, Pennsylvania, New Jersey, New York, Connecticut, Massachusetts, Vermont, New Hampshire, Maine, Texas, Tennessee, and the District of Columbia, for 180 days. SUPPORTING SHIPPER: Delicious Foods Co., P.O. Box 730, Grand Island, Nebr. 68801. SEND PROTESTS TO: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 124328 (Sub-No. 61 TA), filed March 19, 1974. Applicant: BRINK'S, INCORPORATED, 234 E. 24th Street, Chicago, Ill. 60616. Applicant's representative: John G. O'Keefe, O'Hare Plaza, Suite 650, 5725 E. River Road, Chicago, Ill. 60631. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Special nuclear material*, from Wood River Junction, R.I. to Boston, Mass.; from Detroit, Mich. to Sargents, Ohio and from Atlanta, Ga. to Oak Ridge, Tenn., between Lynchburg, Va., on the one hand, and, on the other, Oak Ridge, Tenn. and Waverly, Ohio and between Erwin, Tenn. and Sargents, Ohio; Lynchburg, Va.; Pittsburgh, Pa.; Schenectady, N.Y.; New Haven and Montville, Conn.; and Atlanta, Ga., for 150 days. SUPPORTING SHIPPERS: Babcock & Wilcox Company, Naval Nuclear Fuel Div., P.O. Box 785, Lynchburg, Va. 24505; Nuclear Fuel Services, Inc., 6000 Executive Boulevard, Suite 600, Rockville, Md. 20852; and United Nuclear Corp., Recovery Operations, Wood River Junction, R.I. 02894. SEND PROTESTS TO: District Supervisor Richard K. Shullaw, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 136318 (Sub-No. 22 TA), filed March 21, 1974. Applicant: COYOTE TRUCK LINE, INC., 395½-B West Fleming Drive, Morganton, N.C. 28655. Applicant's representative: David R. Parker, 605 S. 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Television sets, radios, phonographs, stereo systems, recorders and players, speaker systems, and audio equipment;* and (2) *accessories, components and parts* for the commodities set forth in No. 1 above, from Bloomington and Indianapolis, Ind., to points in Georgia, North Carolina, South Carolina and Tennessee. RESTRICTIONS: (1) Against the shipment of commodities in bulk; and (2) to traffic originating at or destined to the facilities utilized by RCA, under continuing contract with same, for 180 days. SUPPORTING SHIPPER: RCA, Cherry Hill, N.J. 08034. SEND PROTESTS TO: District Supervisor Price, Bureau of Operations, Interstate Commerce Commission, 800 Briar Creek Road, CC516, Charlotte, N.C. 28205.

No. MC 139190 (Sub-No. 1 TA), filed March 20, 1974. Applicant: GERALD KOCH, R.F.D. #1, Sabetha, Kans. 66534. Applicant's representative: Erle W. Francis, 719 Capitol Federal Bldg., 700 Kansas Ave., Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soy bean oil meal*, in bulk, bags and containers, from facilities and warehouse of Lincoln Grain Co., at or near Atchison, Kans., to points in Colorado, Iowa, Kansas, Missouri, Nebraska, Oklahoma, South Dakota and Texas, for 180 days.

NOTE.—Applicant states it does not intend to tack the authority here applied for to another authority held by it, or to interline with other carriers.

SUPPORTING SHIPPER: Lincoln Grain Company—Soy Bean Div., P.O. Box 436, Atchison, Kans. 66002. SEND PROTESTS TO: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Building, Topeka, Kans. 66603.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-7675 Filed 4-2-74;8:45 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

MARCH 29, 1974.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate

Commerce Act, as amended October 15, 1962. These applications are governed by special rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. 54459 (AMENDMENT) filed November 27, 1973, published in the FEDERAL REGISTER issue of December 13, 1973, and republished as amended, this issue. Applicant: AMERICAN TRANSFER CO., 2810 Jensen Avenue, P.O. Box 1226, Fresno, Calif. 93706. Applicant's representative: Marvin Handler, 100 Pine Street No. 2550, San Francisco, Calif. 94111. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities* except: (1) Used household goods and personal effects not packed in accordance with the crated property requirements; (2) automobiles, trucks and buses viz: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobile chassis, trucks, truck chassis, truck trailer, trucks and trailers combined, buses and bus chassis; (3) livestock, viz: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, higs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags, or swine; (4) commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment; (4) liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers, or a combination of such highway vehicles; (6) commodities transported in bulk in dump trucks or in hopper-type trucks; (7) commodities when transported in motor vehicles equipped for mechanical mixing in transit; (8) logs; (9) glass-window-other than plate, from Fresno to Los Angeles Metropolitan Zones.

Part I: (1) Between all points and places in the San Francisco Territory, as described in Part 2; (2) Between all points and places on or within 15 lateral miles of the following routes: (a) Between San Francisco and Sacramento via Interstate Highway 80; (b) Between Interstate Highway 80 near Pinole and Stockton via California State Highway 4; (c) Between San Francisco and Stockton via Interstate Highway 80, California State Highway 17, Interstate Highway 580, 205 and 5, California State Highway 120 and 99; (d) Between Tracy and Fresno via California State Highway 33, 152, 180; (e) Between Dos Palos and Jct. California State 99 via California State Highway 152; (f) Between Jct. Interstate 580 and 5 and Interstate Highway 580 near Tracy, via Interstate Highway 580; (g) Between Jct. of Interstate Highway 5 south of Bakersfield and Sacramento via California State Highway 99, serving Ione as an off-route point; (h) Between Sacramento and Lincoln via Interstate Highway 80, and California State Highway 65; (i) Between Jct. California State Highway 33 and 180; and Maricopa via California State Highway 33; (j) Between Maricopa and Jct. California State Highway 99 via California State Highway 166; (k) Between Dunningan and Los Angeles Basin Territory via Interstate Highway 5, serving Ione as an off-route point; (l) Between Jct. California State Highway 99 near Bakersfield and California State Highway 198 near Exeter via California State Highway 65; (m) Between Jct. California State Highway 65 and 198 to Jct. Interstate Highway 5 via California State Highway 198; (n) Between State Highway 99 near Fowler and Clovis via unnumbered highway known as Clovis Avenue; (o) Between Calwa and Sanger via unnumbered highway known as Jensen Avenue; (p) Between Jct. California State Highway 99 near Fowler and Reedley via unnumbered highway known as Manning Avenue; (q) Between California State Highway 99 near Selma and Dinuba via unnumbered highway known as Mountain View Avenue; (r) Between California State Highway 99 near Goshen and Dinuba via unnumbered highway known as Alta Avenue; (s) Between Wasco and Jct. California State Highway 198 near Hanford via California State Highway 43; (t) Between Fresno and Jct. Interstate Highway 5 near Kettleman City via California State Highway 41; and (u) Between Buttonwillow and McKittrick via California State Highway 58.

Part II. SAN FRANCISCO TERRITORY includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of paralleling U.S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue.

Easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning; (B) structural steel forms, tower line hardware, utility poles, insulators, wire, conductors and such other commodities as are necessary or instrumental for the construction, maintenance and operation of high voltage transmission lines; Between all points and places on or within 15 lateral miles of following routes: (1) Between Jct. Interstate 5 and Jct. California State Highway 1 via California State Highway 41; (2) Between Lost Hills and Paso Robles via California State Highway 46; (3) Between McKittrick and Santa Margarita via California State Highway 58; (4) Between La Panza near Highway 58 and Arroyo Grande via unnumbered highway; (5) Between San Luis Obispo and Jct. California State Highway 41 via California State Highway 1; and (6) Between Paso Robles and Arroyo Grande via U.S. Highway 101. In conducting service pursuant to certificates issued in Parts A and B hereof, carrier, for operating convenience, may make use of any street, road, highways, ferry or toll bridge necessary or convenient for the purpose of performing the service authorized above. No service is to be performed locally between points in the Los Angeles Basin territory.

Part III. LOS ANGELES BASIN TERRITORY includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects California Highway 118, approximately 2 miles west of Chatsworth; easterly along California Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest Boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along the said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway 99; northwesterly along U.S. Highway 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway 60.

Southwesterly along U.S. Highways 60 and 395 to the county road approximately 1 mile north of Perris; easterly along said county road via Neuvo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly, and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to California Highway 74; westerly along California Highway 74 to the corporate boundary of the City of Hemet; southerly, westerly, and northerly along said corporate boundary, to the right-of-way of the Atchison, Topeka & Santa Fe Railway Company; southwesterly along said right-of-way to Washington Avenue; southerly along Washington Avenue through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U.S. Highway 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway 395; southeasterly along U.S. Highway 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shore line of the Pacific Ocean to the point of beginning. NOTE: No service is to be performed locally between points in the Los Angeles Basin territory. By this application applicant seeks to substitute and amend page 2 of Exhibit "B" to add Ione, Calif., as an off-route point on two routes. Intrastate, interstate and foreign commerce authority sought. HEARING: April 15, 1974, at the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should *not* be directed to the Interstate Commerce Commission.

California Docket No. 54679 (CORRECTION), filed February 22, 1974, published in the FR issue of March 13, 1974, and republished as corrected this issue. Applicant: SAMJO, INC., doing business as SMISER FREIGHT SERVICE, 8610 S. Atlantic Boulevard, South Gate, Calif. 90280. Applicant's representative: Eldon M. Johnson, The Hartford Building, 650 California Street, Suite 2808, San Francisco, Calif. 94108. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, between the following points, serving all intermediate points on the said routes and all off-route points within ten (10) miles thereof: (1) Williams and the San Diego Territory (as described in Note 1 hereto) on Interstate Highway 5; (2) Marysville and the Los Angeles Basin Territory (as described in Note 2 hereto) on State Highway 65, Interstate Highway 80, State Highway 99 and Interstate Highway 5; (3) Marysville and Sacramento on State Highway 70 and Interstate Highway 5; (4) Yuba City and the San Francisco Territory (as described in Note 3 hereto) on State Highway 20, Interstate Highway 5, Interstate Highway 505 and Interstate Highway 80; (5) Sacramento and the San Francisco Territory (as described in Note 3 hereto) on Interstate Highway 80; (6) Vallejo and the San Francisco Territory (as described in Note 3 hereto) on Interstate Highway 680.

(7) Junction of Interstate Highway 80 and State Highway 4 near Pinole and Stockton on State Highway 4; (8) The San Francisco Territory (as described in Note 3 hereto) and Salinas on U.S. Highway 101; (9) The San Francisco Territory (as described in Note 3 hereto) and Manteca on State Highway 120, Interstate Highway 205 and Interstate Highway 580; (10) San Jose and Santa Cruz on State Highway 17; (11) Santa Cruz and Monterey on State Highway 1; (12) Fresno and Tulare on State Highway 180 and State Highway 63; (13) Exeter and junction State Highway 65 and State Highway 99 near Bakersfield on State Highway 65; (14) The Los Angeles Basin Territory (as described in Note 2 hereto) and the San Diego Territory (as described in Note 1 hereto) on Interstate Highway 15 and U.S. Highway 395; (15) Also serving the off-route points of Taft, Shafter, Wasco, Corcoran, Hanford, Lemoore, U.S. Naval Air Station at Lemoore and Dinuba; and (16) All points in the following territories: (a) San Diego Territory (as described in Note 1 hereto); (b) Los Angeles Basin Territory (as described in Note 2 hereto); and (c) San Francisco Territory (as described in Note 3 hereto).

In performing the service herein described, the routes and points listed above may be joined and combined, and use may be made of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service. Except that, pursuant to the authority herein sought, no shipments of the following shall be transported: (A) Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff 4-B; (B) Automobiles, trucks and buses, viz.: New and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis, freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (C) Livestock, viz.: Barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feederpigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers; (D) Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.

(E) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (F) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (G) Logs; (H) Articles of extraordinary value; (I) Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper; and (J) Commodities requiring the use of special refrigeration or temperature control in specially-designed and constructed refrigerator equipment.

NOTE 1.—The San Diego Territory: Following an imaginary line starting at a point approximately four miles north of La Jolla on the Pacific Coast shoreline running east to Miramar on U.S. Highway 395; thence following an imaginary line running southeasterly to Lakeside on State Highway 67; thence southerly on County Road S17 (San Diego County) and its prolongation to State Highway 94; easterly on State Highway 94 to Jamul; thence due south following an imaginary line to the California-Mexico Boundary Line; thence westerly along the boundary line to the Pacific Ocean and north along the shoreline to point of beginning.

NOTE 2.—The Los Angeles Basin Territory: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway 118, approximately two miles west of Chatsworth; easterly along State Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles

National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway 99; northwesterly along U.S. Highway 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway 60.

Southwesterly along U.S. Highway 60 and U.S. Highway 395 to the county road approximately one mile north of Perris; easterly along said country road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway 74; westerly along State Highway 74 to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way of The Atchison, Topeka & Santa Fe Railway Company; southwesterly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U.S. Highway 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway 395; southeasterly along U.S. Highway 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shore line of the Pacific Ocean to point of beginning.

NOTE 3.—The San Francisco Territory: Between points in California (including the City of San Jose) within an area bounded by a line beginning at the point the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue.

Easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly among Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning. Intrastate, interstate and foreign commerce authority sought.

NOTE.—The purpose of this republication is to include Route 5 through 15, which was inadvertently omitted in the previous publication. HEARING: Date, time and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should *not* be directed to the Interstate Commerce Commission.

California Docket No. 54720 filed March 8, 1974. Applicant: PACIFICA TRANSPORTATION COMPANY, INC., 226 North Atchison, Anaheim, Calif. 92805. Applicant's representative: Donald Murchison, 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif. 90212. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities:* (1) Between all points in the Los Angeles Basin Territory described in Note A. (2) Between the Los Angeles Basin Territory, as described in Note A, on the one hand, and: (a) all points and places in the San Diego Territory described in Note B, and points intermediate thereto located on Interstate Highways 5 and 15, on the other hand; (b) all points and places located in the San Francisco Territory as described in Note C, and points intermediate thereto on U.S. Highway 101, on the other hand; (c) Stockton and points intermediate thereto located on Interstate Highway 5 and/or California Highway 99; (d) all points within 15 miles laterally of the routes and areas designated in Subparagraphs a through c. (3) Any and all highways, roads or streets may be used to serve between the points authorized herein. Except that pursuant to the authority herein granted, carrier shall not transport any shipments of:

(1) Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff 4-B; (2) Automobiles, trucks and buses, viz.: New and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) Livestock, viz.: Barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine, or wethers; (4) Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers, or a combination of such highway vehicles; (5) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (7) Logs; (8) Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper; (9) Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

NOTE A.—LOS ANGELES BASIN TERRITORY includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately two miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporated boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Los Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99; northwesterly along U.S. Highway No. 99 to the corporate boundary of the City of Redlands; westerly and Northerly along said corporated boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway No. 60.

Southwesterly along U.S. Highways Nos. 60 and 395 to the county road approximately one mile north of Perris; easterly along said county road via Nuevo and lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way of the Atchison, Topeka & Santa Fe Railway Company; south-

westerly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U.S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway No. 395; southeasterly along U.S. Highway No. 395 to the Riverside County-San Diego County boundary lines; westerly along said boundary line to the Orange County-San Diego County boundary lines; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning.

NOTE B.—SAN DIEGO TERRITORY includes that area embraced by the following imaginary line starting at the northerly junction of U.S. Highways 101-E and 101-W (four miles north of La Jolla); thence easterly to Miramar on State Highway No. 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway; thence southerly to Bostonia on U.S. Highway No. 80; thence southeasterly to Jamul on State Highway No. 94; thence due south to the International Boundary Line; west to the Pacific Ocean and north along the coast to point of beginning.

NOTE C.—SAN FRANCISCO TERRITORY includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road.

Northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning. Interstate, intrastate and foreign commerce authority sought.

HEARING: Date, time and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

Maine Docket No. X-139 filed February 19, 1974. Applicant: FRANKLIN W. POWELL, doing business as SWAN'S EXPRESS, P.O. Box 124, Fryeburg, Maine 04037. Applicant's representative: Peter L. Murray, 30 Exchange Street, Portland, Maine 04111. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, between Portland, South Portland, and Fryeburg, Maine, serving Portland, South Portland, Westbrook, Sebago, Windham, Raymond, Casco, Naples, Harrison, Bridgton, and Fryeburg, both inclusive and with intermediate pickup and delivery service in both directions at all points.

NOTE.—Applicant seeks to amend Maine Common Carrier Certificate No. 40. Intrastate, interstate and foreign commerce authority sought.

HEARING: April 25, 1974, at the District Court Building, Bridgton, Maine. Requests for procedural information should be addressed to the Maine Public Utilities Commission, State House Annex, Capitol Shopping Center, Augusta, Maine 04330, and should *not* be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC 5312 (Sub-No. 3), filed March 1, 1974. Applicant: S & D TRUCKING CO., INC., Cherry Street, Dyersburg, Tenn. Applicant's representative: Barret Ashley, 322 Church Avenue, Dyersburg, Tenn. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities* (except household goods, explosives, and commodities requiring special equipment), between Dyersburg, Tenn., and Trenton, Tenn., and between Dyersburg, Tenn., and Tiptonville, Tenn., to be used in conjunction with the applicant's present authority and to remove the restrictions on the present authority under Certificate No. MC-5312 so as to allow interchange at Dyersburg, Tenn. Route Description: (1) From Dyersburg, Tenn., to Trenton, Tenn., serving all intermediate points over U.S. Highway 51 to Newbern, Tenn., over State Highway 77 from Newbern, Tenn., to Dyer, Tenn., and over State Highway 45W from Dyer, Tenn., to Trenton, Tenn., and return over the same route with alternate authority from Dyersburg, Tenn., to Trenton, Tenn., over State Highway 104 and return over the same route serving all intermediate points, with authority to interchange at Trenton and all intermediate points, and closed door from Trenton, Tenn., to Jackson, Tenn., and return over U.S. Highway 45W as an alternate route for convenience only; and (2) From Dyersburg, Tenn., to Tiptonville, Tenn., serving all intermediate points over State Highway 78 and return over the same route. Intrastate, interstate and foreign commerce authority sought.

HEARING: May 1, 1974, in the Court Room, Dyer County Court House, Dyersburg, Tenn., at 9:30 A.M. Requests for procedural information should be addressed to the Tennessee Public Service Commission, Cordell Hull Building, Nashville, Tenn. 37219, and should *not* be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON, *Acting Secretary.*

[FR Doc.74-7677 Filed 4-2-74;8:45 am]

[No. AB-33 (Sub-No. 4)]

UNION PACIFIC RAILROAD CO.

Abandonment of Line

Upon consideration of the record in the above-entitled proceeding and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321 et seq.; and good cause appearing therefore:

It is ordered, That applicant be, and is hereby directed to publish the appended notice in a newspaper of general circulation in Leavenworth County, Kans., within 15 days of the date of service of this order, and certify to this Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 25th day of March 1974.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD, *Secretary.*

INTERSTATE COMMERCE COMMISSION

[No. AB-33 (Sub-No. 4)]

UNION PACIFIC RAILROAD COMPANY ABANDONMENT BETWEEN LEAVENWORTH AND KNOX, IN LEAVENWORTH COUNTY, KANS.

The Interstate Commerce Commission hereby gives notice that by order dated March 25, 1974, it has been determined that the proposed abandonment of the line of the Union Pacific Railroad Company, Leavenworth Western Branch, between Leavenworth and Knox, Kans., a distance of approximately 3.106 miles, if approved by the Commission, would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that no rail traffic has been handled over the line to be abandoned since 1967, and there are no prospects for renewed service. Upon abandonment the right-of-way will revert to the control of the Federal government with potential use as a bicycle or jogging trail. The determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available for public inspection upon request at the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-6989.

Interested parties may comment on this matter by the submission of representations to the Interstate Commerce Commission, Washington, D.C. 20423, on or before April 18, 1974.

[FR Doc.74-7673 Filed 4-2-74;8:45 am]

LIST OF FEDERAL REGISTER PAGES AND DATES—APRIL:

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 April.

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federal register

WEDNESDAY, APRIL 3, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 65

PART II

COST OF LIVING COUNCIL

■

PHASE IV PAY AND PRICE CONTROLS

Restatement of Current Scope and Coverage

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 150—PHASE IV PRICE REGULATIONS

PART 152—PHASE IV PAY REGULATIONS

Restatement of Price and Pay Controls Coverage

The purpose of these amendments is to restate the current scope of Phase IV price and pay controls by enumerating those industries that remain covered. These amendments provide a general price exemption with respect to the sale of products and services under the Economic Stabilization Program except in designated industries such as food, construction, health, insurance, wholesaling, and certain manufacturing sectors. A generally parallel exemption under the Phase IV pay regulations is included.

Heretofore the Council had provided exemptions on a case-by-case basis, as part of its policy of gradual decontrol. Since the beginning of Phase IV, the Council has granted exempt status to more than 50 separate industries, sectors or product lines. For example, the Council has exempted such major industries as retail trade (with certain exceptions), sales of motor vehicles at the manufacturing level, the communications and publishing industry, and the sale of certain petrochemicals, nonferrous metals, lumber and millwork, aluminum products and coal. The Council has also acted in response to requests for exemption because of supply problems or other justification with respect to more specific product lines, such as the sale of semiconductors, valves, ferrous castings, furniture and fixtures, and toys and games.

The process of extending exempt status on a case-by-case basis, usually by reference to the 4-digit SIC Industry Numbers, has meant that certain sectors which might qualify for exemption may have been unintentionally overlooked. In addition, with much of the economy already freed from controls under the accelerated pace of exemption actions in recent months, the Council believes it is appropriate to shift attention from sector-by-sector decontrols to general decontrol with retention of control over selected industries only. The Council therefore is amending its regulations to extend exempt status with respect to all price and pay ajdustments except in specified industries.

Under these amendments, all pre-existing exemptions remain unaltered. The present amendments extend exempt status to such sectors as price category I food service, certain insurance premiums, service organizations, apparel, distilled spirits, and nonferrous metal fabrication. Prior to this regulation, only 27.4 percent of the consumer price index, 42.1 percent of the wholesale price index, and 32.3 percent of the labor force were subject to Phase IV regulations. As a result of this exemption, coverage now extends to 24.2 percent of the CPI, 37.4 percent of the WPI, and 26.8 percent of the labor force.

The sectors being exempted by this action are not those in which serious inflationary pressures remain or in which the Council believes it necessary to seek future price or supply commitments. In contrast, the sectors on which the Council is retaining controls at this time are those which might exhibit strong price pressures in the event of immediate exemption. The impact of their exemption would be, in some instances, felt quickly by the consumer. Retaining controls on these areas also is consistent with spreading out whatever price bulge may remain, and will give the Council time to study each industry situation in further detail.

These amendments extend exempt status to all insurance not already exempt under § 150.53(b) except premiums charged for insurance listed under SIC Group No. 632 (Accident and Health Insurance and Medical Service Plans), automobile insurance under Industry No. 6331 (Fire, Marine, and Casualty Insurance), and liability insurance for medical practitioners and other providers of health care under Group No. 635 (Surety Insurance).

On February 1, 1974, in its general retail trade exemption, the Council exempted prices charged by price category II and III firms engaged in food service activities with respect to activities within the scope of SIC Manual, 1972 edition, Major Group 58. Under these amendments, exempt status is extended to price category I firms engaged in food service activities within the scope of Major Group 58.

These amendments also exempt the sale by manufacturers of non-rubberized coated fabrics and rubber and plastics footwear as listed in the SIC Manual, 1972 edition, under Industry Nos. 2295 and 3021. Two firms in the rubber and plastics footwear industry which are responsible for over 50 percent of domestic production have made separate and individual pricing commitments to limit price increases of footwear items through July 1, 1974, to a maximum of 2 percent from presently authorized levels. The sale of nonrubber footwear by manufacturers was previously exempted.

Under the preexisting Phase IV price regulations, there were seven different exemptions relating to ores, primary metals, and fabricated metal products. These exemptions appear as §§ 150.54 (p), (v), (cc), (kk), (oo), (tt), and 150.58(k). The provisions of new § 150.59 (b)(9) restate those exemptions and substantially expand some of them. The Council retains control over firms which derive $50 million or more in annual sales or revenues from the manufacture of products listed in the SIC Manual under Group 331 (Blast Furnaces, Steel Works, and Rolling and Finishing Mills) except ferroalloys. The Council also retains control over all aspects of the copper industry from the mining and processing of copper ore through the production and sale by the manufacturer of copper items and items having a raw material content by value of greater than 50% copper.

The nonferrous metals exemption (§ 150.54(v)) affected nonferrous metals as ores, as basic shapes and in all forms between those states. The aluminum exemption (§ 150.58(k)) is broader in scope and exempts aluminum and aluminum products from the mining stage through the sale of aluminum and aluminum alloy fabricated products listed in Major Group 34. The nonferrous metals exemption did not affect any nonferrous metal products listed in Major Group 34 nor did it affect any nonferrous metal products listed in Major Group 33 other than nonferrous basic shapes (ingots, slabs, blocks, billet, etc.). In order to maintain consistency of treatment, the Council is removing controls from all nonferrous metal products listed in Major Group 33 except copper products including those whose raw material content by value is greater than 50% copper.

Within SIC Major Group 34, the Council retains controls over prices charged for all products listed in Industry Numbers 3411 and 3465, nonaluminum products listed in 3412, 3441, 3443, 3444, 3446, 3448, 3449, 3465, 3493, 3495, 3496 and 3498 and pipe fittings listed in Industry No. 3494. Existing exemptions have decontrolled fastener products listed in Industry No. 3452, valves listed in Industry No. 3494, products listed in Industry No. 3462 (Iron and Steel Forgings) if those products are also listed in Group No. 332 (Iron and Steel Foundries), and all aluminum products in Major Groups 33 and 34 except those listed in Industry Nos. 3411 and 3465. The test for exemption for these aluminum products is their content of aluminum (including aluminum alloy) and other exempt metals. An item is exempt only if it has been manufactured from aluminum, from other exempt nonferrous metals, or from exempt scrap metals and if the total exempt metal content by value is greater than 50 percent.

All scrap metals, ferrous and nonferrous, continue to be exempt at all levels (manufacturing, wholesale, retail). Similarly, any metal or metal product exempt at the manufacturing level is exempt when sold by a wholesaler or retailer.

Under the delegation of authority to the Administrator of the Federal Energy Office, as amended, the Council retains pricing jurisdiction with respect to the following products: asphalt, road oil, refinery gas, petroleum coke, paraffin wax, and ethane. These amendments extend exempt status to all those products. The exemption of asphalt includes SIC Group No. 295 (Paving and Roofing Materials). The Council also retains pricing authority with respect to lubricating oils and greases listed in SIC Industry No. 2992.

In addition, these amendments extend exempt status to prices charged for distilled spirits (SIC 2085), malt beverages (2082), malt (2083), apparel (Major Group 23), industrial inorganic chemicals (Group No. 281) except Industry No. 2816 (Inorganic Pigments), many leather products (as listed in Group Nos.

311, 313, 315, 316), motor vehicles not previously exempted plus truck bodies (as listed in SIC Industry Nos. 3711, 3713, and 3715), transportation equipment (as listed in Group Nos. 373 and 375 and Industry Nos. 3795 and 3799), photographic equipment, clocks, and watches (as listed in Group Nos. 386 and 387), sporting goods (Industry No. 3949), and writing materials (Group No. 395). Further, these amendments extend exemption to prices charged for the products and services within the scope of the SIC Manual, Division A (Agriculture, Forestry, and Fishing) except for landscaping services within the definition of construction at 6 CFR § 150.452 and activities falling under the food regulations.

In general, the sectors remaining under Phase IV price controls are as follows:

(1) The food industry at all levels, except with respect to food service activities and except as previous exemptions in the food sector provide;

(2) The construction industry;

(3) Health care;

(4) Insurance, except for new exemptions provided under these amendments and the pre-existing exemptions;

(5) Wholesaling, but generally only where the products concerned remain under controls at the manufacturing level, and in certain other specified areas such as automobile wholesaling;

(6) Automobile retailing;

(7) Selected manufacturing sectors, such as drugs and other health supplies, glass production, wine and tobacco industries, certain chemical preparations, certain textiles, steel, copper, metal cans, certain fabricated metal products used in the automobile and construction industries, and selected machinery categories; and

(8) Profit-controlled petrochemicals.

Under §§ 150.11(e) and 150.161(b), a firm with revenues from the sale of exempt items remains subject to the profit margin constraints and reporting provisions of the Phase IV program unless during its most recent fiscal year it derived both less than $50 million in annual sales or revenues from the sale or lease of nonexempt items and 90% or more of its sales and revenues from the sale of exempt items or exempt sales.

Economic fact sheets prepared by the Council in conjunction with these amendments are added to Part 150 as Appendix B.

The exemptions from pay controls effected by these amendments generally parallel the price exemptions. The differences in coverage are set forth in the new Appendix B to Part 150.

A new § 152.30 is added to Subpart D of Part 152. This new section makes clear that Subpart D contains pay exemptions issued and applicable prior to April 1, 1974 while the new Subpart M governs the exemption structure on and after that date. Wherever another provision of Part 152 refers to pay adjustments that are exempt under Subpart D, that reference will be considered to encompass also the pay adjustments that are exempt by operation of Subpart M.

These amendments also add a new Subpart M, title Coverage Under Controls On and After April 1, 1974, to Part 152. The major provisions of the new subpart are as follows:

§ *152.161 Scope.* This section simply outlines the purpose of the subpart. Previously, the Council has specifically listed those pay adjustments that are exempt. Beginning with this establishment of Subpart M, a pay adjustment is considered exempt unless it is made nonexempt by the provisions of Subpart M. The Council expects in the future to release from controls some of the industries presently listed as controlled under Subpart M, and the subpart has been designed to facilitate that process.

§ *152.162 Exemptions previously granted.* This section makes clear that the exemptions provided in Subpart D remain in effect.

§ *152.163 New exemptions in industries previously subject to self-administered controls.* This section states as a general rule that pay adjustments subject to the self-administered standards of Subpart B are exempt, unless retained under controls by the provisions of Subpart M.

§ *152.164 Food industry.* This section provides that pay adjustments affecting employees in the food industry remain subject to controls unless specifically exempted in paragraph (b). Paragraph (b)(1) continues the exemption previously granted to establishments in the canned fruits and vegetables manufacturing industry. Paragraph (b)(2) extends a new specific exemption to certain growers, harvesters and raisers of food classified under SIC Major Groups 01 and 02. This exemption applies to only those pay adjustments that were previously defined as not within the food industry under the provisions of § 152.72(e). Paragraph (b)(3) extends a new specific exemption to certain eating places, drinking places, and mobile lunch wagons classified under Major Group 58 or Industry No. 5963. This exemption applies to only those pay adjustments that were previously defined as not within the food industry under the provisions of § 152.72(c).

Paragraph (c) provides that exemptions granted to employees in the food industry continue to be subject to certain limitations, unless those limitations are specifically made nonapplicable. An exemption does not apply to pay adjustments that are the subject of a report, request for approval, or challenge pending at the Council on the date of the exemption, or to pay adjustments for which a report is required prior to that date under the provisions of § 152.76(c)(2) or any other regulation. An exemption also does not apply to pay adjustments subject to a decision and order, for the period covered by that decision and order. Also, an exemption does not apply to pay adjustments of employees at an establishment controlled, directly or indirectly, by a firm primarily engaged in the wholesale or retail sale of food.

§ *152.165 Health care industry.* This section provides that pay adjustments affecting employees in the health care industry remain subject to controls unless specifically exempted in paragraph (b). Paragraph (b) simply continues the exemption previously granted to certain specified classifications of health care providers.

§ *152.166 Construction industry.* This section provides that pay adjustments affecting employees in the construction industry remain subject to the provisions of Subpart J. Pay adjustments subject to the jurisdiction of the Construction Industry Stabilization Committee will continue to be submitted to CISC in accordance with the provisions of Chapter V of Title 6, Code of Federal Regulations.

§ *152.167 Industries continuing under self-administered controls.* This section sets forth the scope of continued coverage in industries subject to the self-administered controls of Subpart B. Pay adjustments affecting employees engaged on a regular and continuing basis in the operation of an establishment classified under a SIC Number listed in paragraph (b) remain subject to self-administered controls.

§ *152.168 Limitations on exemptions.* This section sets forth general limitations that apply to all exemptions granted under subpart M, unless the limitations are specifically made inapplicable by another provision in the subpart. Paragraph (a)(1) provides that exemptions do not apply to employees who receive incentive compensation subject to the provisions of §§ 152.124, 152.-125, or 152.126. Paragraph (a)(2) provides that exemptions do not apply to members of executive control groups. Paragraph (a)(3) makes an exemption inapplicable to an employee whose occupational duties and responsibilities are of a type not exclusively performed in or related to the particular industry exempted, if that employee's pay adjustments are historically related to pay adjustments outside the industries exempted from controls and are not related to pay adjustments within an exempted industry. Paragraph (a)(4) provides that an exemption does not extend to employees in an appropriate employee unit where 20% or more of the employees are not engaged on a regular and continuing basis in the operation of an establishment in an exempted industry or in support thereof. Paragraph (a)(5) provides that an exemption does not extend to pay adjustments subject to an outstanding challenge under the rules applicable to self-administered sectors. Paragraph (a)(6) provides that an exemption does not extend to an appropriate employee unit that is subject to a decision and order. Paragraph (a)(7) provides that an exemption does not apply to pay adjustments which are required to be prenotified to the Council under the provisions of § 152.24. Paragraph (b) restates the general rule (set forth in § 152.1(b)) that contract provisions dependent for their operation on the modification or termination of controls are inoperative, and makes clear that this rule continues to apply even after an exemption has been granted. Paragraph (c) provides

that, unless otherwise specified, exemptions under subpart M do not apply to employees of State and local governments or agencies or instrumentalities thereof. The public sector of the economy remains under study for possible consideration for exemption in the future. Paragraph (d) provides that unless otherwise specified, exemptions under subpart M apply with respect to work performed on and after the date of the exemption action. Pay adjustments for prior periods remain subject to the rules then in effect. Paragraph (e) provides that in order to be considered engaged in the operation of an establishment, an employee must be employed at that establishment by the firm which operates the establishment.

As with all exemptions from Phase IV controls, firms exempted by these amendments remain subject to review for compliance with appropriate regulations in effect prior to these exemptions. A firm exempted by these amendments will be held responsible for its pre-exemption compliance under all phases of the Economic Stabilization Program. A firm affected by these exemptions alleged to be in violation of stabilization rules in effect prior to this exemption is subject to the same compliance actions as a nonexempt firm. These compliance actions include investigations, issuance of notices of probable violation, issuance of remedial orders requiring rollbacks or refunds, and possible penalty of $2,500 for each stabilization violation.

The Council retains the authority to reestablish price and wage controls over any of the industries exempted by these amendments if price or wage behavior is inconsistent with the policies of the Economic Stabilization Program. The Council also has the authority, under §§ 150.-162 and 152.6, to require firms to file special or separate reports setting forth information relating to the Economic Stabilization Program in addition to any other reports which may be required under the Phase IV controls program.

Because the purpose of these amendments is to provide immediate guidance with respect to decisions of the Council, the Council finds that publication in accordance with normal rulemaking procedure is impracticable and that good cause exists for making these amendments effective in less than 30 days. Interested persons may submit written comments regarding this amendment. 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 1743; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489.)

In consideration of the foregoing, Parts 150 and 152 of Title 6 of the Code of Federal Regulations are amended as set forth herein, effective April 1, 1974.

Issued in Washington, D.C., on April 1, 1974.

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

1. In 6 CFR Part 150, Subpart D is amended by adding a new § 150.59 to read as follows:

§ 150.59 General price exemption.

(a) *General rule.* Notwithstanding any other provision of this subpart except §§ 150.52, 150.53(a), 150.54(a)(2), 150.-54(b) through (j), 150.54(m), 150.54(r), 150.54(bb), 150.55(a) through (c), and 150.60, the prices charged for all products and services included within the coverage of this title are exempt except as provided in paragraph (b) of this section. Unless otherwise specified, references to Standard Industrial Classification Numbers are to the numbers listed in the Standard Industrial Classification Manual, 1972 edition.

(b) The prices charged for the following products and services are not exempt:

(1) *Food*—(i) *General.* The prices charged for food products or food services by a manufacturer, service organization, wholesaler or retailer subject to Subpart Q of this part, except as provided in paragraph (b)(1)(ii) of this section. Food manufacturing activities are generally, but not exclusively, listed under SIC Major Group 20. Food wholesaling activities are generally, but not exclusively, listed under SIC Group No. 514. Food service activities are generally, but not exclusively, listed under SIC Major Group 58. Food retailing activities are generally, but not exclusively, listed under SIC Major Group 54.

(ii) *Exceptions.* (A) The prices charged by honey producers for honey and honey products.

(B) The prices charged by feed manufacturers for products listed in the SIC Manual under Industry No. 2048 which are produced for use as or in manufactured feeds for animals and fowls.

(C) The prices charged by firms engaged in food service activities with respect to activities within the scope of SIC Major Group 58.

(D) The prices which manufacturers of edible and inedible tallow, lard, grease, stearin or other fat products from animal fat, bones, and meat scraps charge for those products. The affected animal fats and products are described in the SIC Manual in Group No. 201 and Industry No. 2077.

(E) The prices which firms primarily engaged in manufacturing charge for the following products which they manufacture: products listed in the SIC Manual, 1972 edition, under Industry No. 2033 (except jams, jellies, marmalade, and preserves).

(2) *Construction.* The prices charged for construction services by firms subject to Subpart N of this part. Construction services are generally, but not exclusively, listed under SIC Major Groups 15, 16, and 17.

(3) *Health care.* The prices charged for health care services subject to Subpart O or R of this part except as provided in § 150.57. Health care services are generally, but not exclusively, listed under SIC Major Group 80.

(4) *Insurance.* The prices charged for insurance services listed under SIC Group No. 632 (Accident and Health Insurance and Medical Service Plans); Industry No. 6331 (Fire, Marine, and Casualty Insurance), but only with respect to automobile insurance; and Group No. 635 (Surety Insurance), but only with respect to liability insurance for medical practitioners and other providers of health care.

(5) *Wholesale.* The prices charged for the following products at the wholesale level by a firm subject to Subpart K of this part:

(i) The products listed under the SIC numbers referred to in paragraph (b)(7), (9), (10), (11) and (12) of this section; and

(ii) The products listed in the SIC Manual, 1972 edition, under Industry Nos. 5012 (Automobiles and Other Motor Vehicles); 5013 (Automotive Parts and Supplies); 5051 (Metals Service Centers and Offices) but only those nonferrous metal products which are not exempt at the manufacturing level and iron and steel products (except ferrous castings and forgings); Group No. 512 (Drugs, Drug Proprietaries, and Druggists' Sundries); Group No. 514 (Groceries and Related Products); Group No. 515 (Farm Product Raw Materials); and Industry No. 5182 (Wines and Distilled Alcoholic Beverages).

(6) *Retail.* The prices charged for the following products at the retail level by a firm subject to Subpart K of this part: the products listed in SIC Group Nos. 551 (Motor Vehicle Dealers, New and Used) and 553 (Auto and Home Supply Stores).

(7) *Manufacturing and Service; General.* The prices which a manufacturer of the following products and services charges for those products and services: the products and services listed in the Standard Industrial Classification Manual, 1972 edition, under—

Industry No. 1011 (Iron Ores)
Industry No. 1021 (Copper Ores)
Group No. 144 (Sand and Gravel)
Industry No. 2084 (Wines, Brandy, and Brandy Spirits)
Major Group 21 (Tobacco Manufacturers)
Major Group 22 (Textile Mill Products), except Industry No. 2295 (Coated Fabrics, Not Rubberized).
Group No. 283 (Drugs)
Group No. 284 (Soap, Detergents, and Cleaning Preparations, Perfumes, Cosmetics, and Other Toilet Preparations), except Industry No. 2843 (Surface Active Agents, Finishing Agents, Sulfonated Oils and Assistants).
Group No. 321 (Flat Glass)
Group No. 322 (Glass and Glassware, Pressed or Blown)
Group No. 323 (Glass Products, Made of Purchased Glass)
Group No. 325 (Structural Clay Products)
Group No. 327 (Concrete, Gypsum, and Plaster Products)
Industry No. 3714 (Motor Vehicle Parts and Accessories)
Group No. 374 (Railroad Equipment)
Group No. 384 (Surgical, Medical, and Dental Instruments and Supplies)

(8) *Paper.* The prices charged by a manufacturer for the products listed in the SIC Manual, 1972 edition, under Major Group 26 (Paper and Allied Products) if that manufacturer derived in total more than $150 million in annual sales or revenues from the sale of those products and has not submitted to the

Cost of Living Council a price commitment for price restraint which has been determined to be satisfactory by the Council.

(9) *Ores, Primary Metals, and Fabricated Metal Products*—(i) *Steel*. The prices which a manufacturer of the following products charges for those products if it derives in total $50 million or more in annual sales or revenues from the manufacture and sale of those products: the products listed in the SIC Manual, 1972 edition, under Group No. 331 (Blast Furnaces, Steel Works, and Rolling and Finishing Mills), except ferroalloys.

(ii) *Fabricated metal products*. The prices which a manufacturer of the following products charges for those products:

(A) The products listed in the SIC Manual, 1972 edition, under the following Industry Nos.:

3411 (Metal Cans)
3465 (Automotive Stampings)

(B) The products listed in the SIC Manual, 1972 edition, under the following Industry Numbers, except those products whose raw material content by value is greater than 50% aluminum, aluminum alloy, other exempt nonferrous metal, and ferrous and ferrous alloy scrap:

3412 (Metal Shipping Barrels, Drums, Kegs, and Pails)
3441 (Fabricated Structural Metal)
3443 (Fabricated Plate Work (Boiler Shops))
3444 (Sheet Metal Work)
3446 (Architectural and Ornamental Metal Work)
3448 (Prefabricated Metal Buildings and Components)
3449 (Miscellaneous Metal Work)
3493 (Steel Springs, Except Wire)
3494 (Valves and Pipe Fittings)—pipe fittings only
3495 (Wire Springs)
3496 (Miscellaneous Fabricated Wire Products)
3498 (Fabricated Pipe and Fabricated Pipe Fittings)

(iii) *Copper*. The prices which a firm charges for the copper content of ores and tailings; copper waste products, by-products, residues, and basic shapes derived from the milling, smelting, and refining of ores and copper metal; any metal waste product, by-product, residue or basic shape whose raw material content by value is greater than 50% copper; any product listed in Major Group 33 whose raw material content by value is greater than 50% copper.

(10) *Machinery*. The prices which manufacturers of the following products charge for those products: the products listed in the SIC Manual under Major Groups 35 (Machinery, Except Electrical) and 36 (Electrical and Electronic Machinery, Equipment, and Supplies), except the products listed in the following Industry Nos.:

SIC MANUAL, 1972 EDITION

3532 (Mining Machinery and Equipment, Except Oil Field Machinery and Equipment)
3533 (Oil Field Machinery and Equipment)
3674 (Semiconductors and Related Devices)

SIC MANUAL, 1967 EDITION

3535 (Conveyors and Conveying Equipment)
3541 (Machine Tools, Metal Cutting Types)
3542 (Machine Tools, Metal Forming Types)
3544 (Special Dies and Tools, Die Sets, Jigs and Fixtures)
3545 (Machine Tool Accessories and Measuring Devices)
3551 (Food Products Machinery)
3559 (Special Industry Machinery, Not Elsewhere Classified)
3561 (Pumps, Air and Gas Compressors, and Pumping Equipment)
3564 (Blowers and Exhaust and Ventilation Fans)
3565 (Industrial Patterns)
3566 (Mechanical Power Transmission Equipment, Except Ball and Roller Bearings)
3569 (General Industrial Machinery and Equipment, Not Elsewhere Classified)
3585 (Air Conditioning Equipment and Commercial and Industrial Refrigeration Machinery and Equipment)
3589 (Service Industry Machines, Not Elsewhere Classified)
3599 (Miscellaneous Machinery, Except Electrical)
3642 (Lighting Fixtures)
3644 (Noncurrent-Carrying Wiring Devices)
3662 (Radio and Television Transmitting, Signaling and Detection Equipment and Apparatus)
3679 (Electronic Components and Accessories, Not Elsewhere Classified)
3699 (Electrical Machinery, Equipment and Supplies, Not Elsewhere Classified)

(11) *Petroleum and Petroleum Products*. (i) The prices charged for products and services with respect to which price control authority is delegated to the Administrator of the Federal Energy Office pursuant to Cost of Living Council Order No. 47, as amended.

(ii) The prices which manufacturers of the following products charge for those products: the products listed in the SIC Manual, 1972 edition, under Industry No. 2992 (Lubricating Oils and Greases).

(12) *Petrochemicals*. The prices which Price Category I manufacturers of the following products charge for those products: the products described in the SIC Manual, 1972 edition, under Industry Nos. 2816, 2821, 2822, 2823, 2824, 2843, 2851, 2861, 2865 (except benzene and toluene), 2869, 2891, 2892, 2893, 2895, and 3079. Prices for these products may be charged in accordance with § 150.73 (e) of this chapter.

(13) *Warehousing and terminal operations*. The prices charged for the services described in SIC Group Nos. 422 (Public Warehousing) and 423 (Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation).

(14) *Mass transportation systems*. The prices charged for mass transportation services subject to Subpart P of this part.

2. In 6 CFR Part 152, Subpart D is amended by adding a new § 152.30 to read as follows:

§ 152.30 Effective date.

This subpart shall apply to pay adjustments with respect to work performed on and after August 31, 1973 and prior to April 1, 1974. On and after April 1, 1974, the provisions of Subpart M of this part shall apply. Notwithstanding the preceding two sentences, any exemption from controls contained in this subpart and restated or incorporated by reference in Subpart M, may be cited as authority for the exemption in Subpart M. Nothing contained in this section shall be construed in any way to limit the scope, effective date, or application of an exemption contained in this subpart for periods prior to April 1, 1974. References elsewhere in this part to exemptions provided in this Subpart D shall be deemed to refer also to exemptions provided in Subpart M.

3. In Title 6, Code of Federal Regulations, Part 152 is amended by adding a new Subpart M to read as follows:

Subpart M—Coverage Under Controls On and After April 1, 1974

AUTHORITY: Economic Stabilization Act of 1970, as amended; Pub. L. 92-210, 85 Stat. 743; Pub. L. 92-23, 87 Stat. 27; EO 11695, 38 FR 1743; EO 11730, 38 FR 8029; CLC Order No. 14, 38 FR 1489.

§ 152.161 Scope.

This subpart establishes rules for the coverage under Phase IV pay controls of pay adjustments with respect to work performed on and after April 1, 1974. This subpart lists sectors of the economy over which controls are retained. The Council expects to release various sectors from time to time by deletion from the list of industries or by deletion of pay adjustments specifically excluded from an exemption. This subpart includes the exemptions previously adopted during Phase IV by incorporating by reference all exemptions previously granted under Subpart D.

§ 152.162 Exemptions previously granted.

Except as otherwise provided in this subpart, pay adjustments affecting employees engaged on a regular and continuing basis in the operation of an establishment in an industry previously exempted under Subpart D are exempt from and not limited by the provisions of this title, subject to the same conditions and limitations specified with respect to such industry in Subpart D. In addition, pay adjustments of Federal employees, certain U.S. Citizens, professional athletes, low wage employees, and employees of tax exempt organizations previously exempted in §§ 152.31, 152.32, and 152.40d are exempt from and not limited by the provisions of this title, subject to the same conditions and limitations specified in such sections.

§ 152.163 New exemptions in industries previously subject to self-administered controls.

Except as otherwise provided in this subpart, pay adjustments affecting employees engaged on a regular and con-

tinuing basis in the operation of an establishment in any industry classified in the Standard Industrial Classification Manual, 1972 edition, and subject to self-administered controls under Subpart B, are exempt from and not limited by the provisions of this title on and after April 1, 1974.

§ 152.164 Food industry.

(a) *General.* Except as otherwise provided in this subpart, pay adjustments affecting employees in the food industry are excluded from exemption under this subpart and remain subject to the Special Rules Applicable to the Food Industry in Subpart H. Notwithstanding the preceding sentence, and subject to conditions specified by the Council, pay adjustments affecting employees engaged on a regular and continuing basis in the operation of establishments listed in paragraph (b) of this section are exempt on and after the date specified.

(b) *Exempt food industry establishments.* (1) Industry No. 2033—Canned Fruits and Vegetables (except jams, jellies, preserves, and marmalade)—(March 18, 1974)

(2) Growers, harvesters, and raisers of food classified under Major Group Nos. 01 or 02 or elsewhere; except for growers, harvesters, and raisers within the scope of § 152.72(e), relating to activities controlled by a manufacturer, service organization, wholesaler, or retailer—(April 1, 1974).

(3) Eating places, drinking places, and mobile lunch wagons classified under Major Group No. 58 or Industry No. 5963; except for eating places, drinking places, and mobile lunch wagons within the scope of § 152.72(c), relating to activities controlled by a manufacturer, service organization, wholesaler, or retailer—(April 1, 1974).

(c) *Limitations on exemptions.* The limitations set forth in § 152.168 shall apply to any exemption granted under paragraph (b) of this section. In addition, unless specifically provided to the contrary in this section, an exemption granted under paragraph (b) of this section shall not extend to the following:

(1) Pay adjustments with respect to which a report or request for approval has been filed or a challenge has been made or issued prior to the effective date of the exemption, pursuant to the provisions of Subpart F of Part 130 of this chapter, or Subpart H of this part, unless such pay adjustments have been approved or such challenge has been dismissed.

(2) Pay adjustments scheduled to be effective prior to the date of the exemption, for which a report or request for approval is required pursuant to the provisions of Subpart H of this part, including pay adjustments with respect to which a report is required pursuant to § 152.76(c)(2).

(3) Pay adjustments with respect to an appropriate employee unit which is subject to a decision and order of the Council or its delegate—

(i) Issued prior to the effective date of the exemption; or

(ii) Issued on or after the effective date of the exemption, with respect to pay adjustments which are the subject of a report, request for approval, or challenge described in paragraph (c)(1) or (2) of this section.

The limitation set forth in this paragraph (c)(3) shall be applicable for the period covered by such decision and order, but shall not be applicable if the decision and order has the effect of permitting the subject pay adjustments to be implemented.

(4) Employees engaged on a regular and continuing basis in the operation of a food industry establishment if such establishment is controlled directly or indirectly by a firm primarily engaged in the wholesale or retail sale of food.

§ 152.165 Health care industry.

(a) *General.* Except as otherwise provided in this subpart, pay adjustments affecting employees in the health care industry are excluded from exemption under this subpart and remain subject to the Special Rules Applicable to Providers of Health Care in Subpart I. Notwithstanding the preceding sentence, and subject to conditions or limitations specified by the Council, the establishments listed in paragraph (b) of this section are exempt on and after the date specified.

(b) *Selected providers of health care.* The providers of health care referred to in § 152.40b(b) are exempt on and after Janaury 1, 1974. The limitations set forth in § 152.168 are inapplicable to such providers of health care.

§ 152.166 Construction industry.

Except as otherwise provided in this subpart, pay adjustments affecting employees in the construction industry are excluded from exemption under this subpart and remain subject to the Special Rules Applicable to the Construction Industry in Subpart J.

§ 152.167 Industries continuing under self-administered controls.

(a) *General.* Pay adjustments affecting employees engaged on a regular and continuing basis in the operation of an establishment in an industry listed in paragraph (b) of this section, or in support of such operation, shall remain subject to the self-administered controls provisions of Subpart B and any other applicable rules in this part until such time as that industry has been exempted by deletion from the list in paragraph (b) of this section or an exemption has otherwise been made applicable. The limitations set forth in § 152.168 shall apply to any such exemption, unless specifically provided to the contrary in this subpart.

(b) *Controlled establishments.* The following are the establishments, classified in the Standard Industrial Classification Manual, 1972 edition, with respect to which pay adjustments are controlled under Subpart B:

Industry No. 1011—Iron Ores.
Industry No. 1021—Copper Ores.
Industry No. 1031—Lead and Zinc Ores.
Group No. 144—Sand and Gravel.
Industry No. 2082—Malt Beverages.
Industry No. 2083—Malt.
Industry No. 2084—Wines, Brandy, and Brandy Spirits.
Major Group No. 21—Tobacco Manufactures.
Major Group No. 22—Textile Mill Products, except for Industry No. 2295 (Coated Fabrics, Not Rubberized).
Industry No. 2711—Newspapers: Publishing, Publishing and Printing.
Group No. 284—Soap, Detergents, and Cleaning Preparations, Perfumes, Cosmetics, and Other Toilet Preparations; except Industry No. 2843 (Surface Active Agents, Finishing Agents, Sulfonated Oils and Assistants).
Industry No. 2911—Petroleum Refining.
Group No. 321—Flat Glass.
Group No. 322—Glass and Glassware, Pressed or Blown.
Group No. 323—Glass Products, Made of Purchased Glass.
Group No. 325—Structural Clay Products.
Group No. 327—Concrete, Gypsum, and Plaster Products.
Group No. 331—Blast Furnaces, Steel Works, and Rolling and Finishing Mills.
Industry No. 3331—Primary Smelting and Refining of Copper.
Group No. 334—Secondary Smelting and Refining of Nonferrous Metals, but only with respect to copper products.
Group No. 335—Rolling, Drawing, and Extruding of Nonferrous Metals, but only with respect to copper products.
Industry No. 3362—Brass, Bronze, Copper, Copper Base Alloy Foundries (Castings).
Industry No. 3441—Fabricated Structural Metal.
Industry No. 3443—Fabricated Plate Work (Boiler Shops).
Industry No. 3444—Sheet Metal Work.
Industry No. 3446—Architectural and Ornamental Metal Work.
Industry No. 3448—Prefabricated Metal Buildings and Components.
Industry No. 3493—Steel Springs, Except Wire.
Industry No. 3494—Valves and Pipe Fittings (but only with respect to products not previously exempted in § 152.40j).
Industry No. 3495—Wire Springs.
Industry No. 3496—Miscellaneous Fabricated Wire Products.
Industry No. 3498—Fabricated Pipe and Fabricated Pipe Fittings.
Major Group 35—Machinery, Except Electrical; but only with respect to products not previously exempted in §§ 152.39e and 152.40n.
Major Group 36—Electrical and Electronic Machinery, Equipment and Supplies; but only with respect to products not previously exempted in §§ 152.39e and 152.40n.
Group No. 374—Railroad Equipment.
Group No. 404—Railway Express Service.
Major Group No. 41—Local and Suburban Transit and Interurban Highway Passenger Transportation; except Group No. 412 (Taxicabs).
Major Group No. 42—Motor Freight Transportation and Warehousing.
Major Group No. 44—Water Transportation.
Major Group No. 45—Transportation by Air.
Major Group No. 47—Transportation Services.
Group No. 491—Electric Services.
Industry No. 4924—Natural gas distribution.
Group No. 493—Combination Electric and Gas, and Other Utility Services.
Major Group No. 51—Wholesale Trade—Nondurable Goods; but only with respect to merchant wholesalers, merchandisers, and

manufacturers sales branches and offices trading in drugs, petroleum products, and beer, wine, and alcoholic beverages under Groups Nos. 512, 517, and 518.

Industry No. 5983—Fuel Oil Dealers.

Industry No. 5984—Liquefied Petroleum Gas (Bottled Gas) Dealers.

§ 152.168 Limitations on exemptions.

(a) *General limitations.* Unless specifically provided to the contrary in this subpart, an exemption granted under this subpart on or after April 1, 1974, that applies to pay adjustments affecting employees previously subject to mandatory controls under Subpart H, I, or J, or previously subject to self-administered controls under Subpart B, shall not apply to—

(1) *Incentive compensation.* An employee who receives an item of incentive compensation subject to the provisions of § 152.124, 152.125, or 152.126.

(2) *Executive control groups.* An employee who is a member of an executive control group (determined pursuant to § 152.130).

(3) *Nonindustry-related pay adjustments.* An employee whose occupational duties and responsibilities are of a type not exclusively performed in or related to the particular industry (or portion thereof) exempted and whose pay adjustments—

(i) Are historically related to pay adjustments of employees performing such duties outside an industry exempted under this subpart, and

(ii) Are not related to pay adjustments of employees performing such duties and responsibilities within an industry (or portion thereof) exempted under this subpart.

(4) *Mixed units.* Employees who are members of an appropriate employee unit if 25% or more of the employees who are members of such unit are not engaged on a regular and continuing basis in the operation of an establishment in an industry exempted under this subpart or in support of such operation.

(5) *Previously challenged pay adjustments.* Pay adjustments with respect to which a report or request for approval has been filed or a challenge has been made or issued prior to the effective date of the exemption, pursuant to the provisions of Subpart J of Part 130 of this chapter, or Subpart F of this part, unless such pay adjustments are approved or such challenge is dismissed.

(6) *Pay adjustments subject to a Council decision and or;der.* Pay adjustments with respect to an appropriate employee unit which is subject to a decision and order of the Council or its delegate—

(i) Issued prior to the effective date of the exemption; or

(ii) Issued on or after the effective date of the exemption, with respect to pay adjustments which are the subject of a challenge described in paragraph (a)(5) of this section.

The limitations set forth in this paragraph (a)(6) shall be applicable for the period covered by such decision and order.

(7) *Pay adjustments subject to a prenotification requirement.* Pay adjustments with respect to which the Council has imposed a prenotification requirement under the provisions of § 152.24.

(b) *Certain contract provisions.* Contract provisions which depend for their operation upon the modification or termination of the Economic Stabilization Act of 1970, as amended, or of any rules, regulations, or orders of the Council, and which affect employees engaged on a regular and continuing basis in the operation of an establishment in any industry previously subject to mandatory controls under Subparts H, I, or J, or previously subject to self-administered controls under Subpart B, are inoperative as unreasonably inconsistent with the goals of the Economic Stabilization Program. Unless specifically provided to the contrary in this subpart, all employers and employees continue to be subject to this paragraph even after pay adjustments affecting such employers and employees are exempted under this subpart.

(c) *Employees of State and local governments.* Unless specifically provided to the contrary in this subpart, an exemption granted under this subpart shall not apply to pay adjustments with respect to an employee who is employed directly or indirectly by a State or local government or an agency or instrumentality thereof.

(d) *Effective date of exemption.* Unless specifically provided to the contrary in this subpart, an exemption granted under this subpart applies to pay adjustments with respect to work performed on and after the date on which the exemption is effective. Pay adjustments with respect to work performed prior to such date remain subject to the limitations set forth elsewhere in this part.

(e) *Employment at the establishment.* In order to be considered to be engaged on a regular and continuing basis in the operation of an establishment, an employee must be employed at such establishment and must be employed by the firm which operates such establishment. operates such establishment.

4. In 6 CFR, Part 150 is amended by the addition of a new Appendix B to read as follows:

APPENDIX B

FACT SHEET—RESTATEMENT OF PHASE IV WAGE AND PRICE CONTROL COVERAGE, APRIL 1, 1974

Table

1. Phase IV exemptions through March 1974.
2. Industries exempted by April 1 amendment.
3. Phase IV coverage:
   - Consumer price index.
   - Wholesale price index.
   - Labor force.
4. Industries remaining under Phase IV controls as of April 1, 1974.

Table 1

Phase IV Exemptions Through March 1974

Sector	Date Exempted
Copper Scrap	July 26, 1973
Long Term Coal Contracts	Aug. 12, 1973
Lumber (Certain SIC's)	Aug. 12, 1973
Public Utilities	Aug. 12, 1973
Fertilizer & Fertilizer Mat.	Oct. 25, 1973
Stripper Wells	Nov. 21, 1973
Cement	Nov. 27, 1973
Honey	Nov. 27, 1973
Alfalfa Pellets	Nov. 27, 1973
Workshops for the Blind	Nov. 28, 1973
Lead, Zinc, Tin, Ferronickel & Lessor Nonferrous Metals	Dec. 6, 1973
Motor Vehicles	Dec. 10, 1973
Lumber Industry Wages	Dec. 12, 1973
Aviation Insurance (Passenger Hazard)	Dec. 28, 1973
Broomcorn Brooms	Dec. 28, 1973
Camps	Dec. 28, 1973
Manufactured Animal Feeds	Dec. 28, 1973
Non-ferrous Alloys	Jan. 4, 1974
Ferronickel	Jan. 14, 1974
Miscellaneous Providers of Health Services	Jan. 16, 1974
Mobile Homes	Jan. 21, 1974
Recreation Vehicles	Jan. 21, 1974
Semiconductors, Transistors, Integrated Circuits	Jan. 21, 1974
Category III Steel Companies	Jan. 25, 1974
Tax Exempt Organizations	Jan. 25, 1974
Petrochemical Feedstocks	Jan. 30, 1974
Tires and Tubes	Jan. 30, 1974
Retail Trade	Feb. 1, 1974
Checker Motors Corporation	Feb. 11, 1974
Steel Drum Reconditioning	Feb. 11, 1974
Stevedoring and Marine Terminal Services	Feb. 11, 1974
Rendering Industry	Feb. 12, 1974
Ferrous Scrap	Feb. 12, 1974
Non-Rubber Shoes	Feb. 15, 1974
Picture Post Cards	Feb. 19, 1974
Iron and Steel Foundries	Feb. 20, 1974
Furniture	Feb. 22, 1974
Valve Industry	Feb. 26, 1974
Mining & Oil Field Machinery	Feb. 26, 1974
Toys	Mar. 1, 1974
Instruments	Mar. 5, 1974
Jewelry and Silverware	Mar. 5, 1974
Wood Products	Mar. 6, 1974
Fastener Products	Mar. 7, 1974
Paper and Paper Products	Mar. 8, 1974
Fabricated Rubber Products	Mar. 13, 1974
Petrochemical Products (Category II & III only)	Mar. 13, 1974
Printing, Publishing, Broadcasting & Related Services	Mar. 15, 1974
Canned Fruits & Vegetables	Mar. 18, 1974
Unconcentrated Machinery Industries	Mar. 20, 1974
Ferroalloy Metals	Mar. 21, 1974
Cordage and Twine	Mar. 26, 1974
Coal Industry	Mar. 27, 1974
Aluminum Industry	Mar. 28, 1974
Musical Instruments	Mar. 28, 1974
Aerospace and General Aviation	Mar. 29, 1974

Table 2

Industries Exempted by April 1 Amendment

SIC	Description	1972 Shipments ($ Billion)	1972 Employment (Thousands)
Agriculture, Forestry and Fishing			
01-09	Agriculture, Forestry, Fishing a/	N.A.	N.A.
Mining			
106	Ferroalloy Ores, Except Vanadium	.2	4
108	Metal Mining Services	N.A.	2
1321	Natural Gas Liquids (Ethane only)	N.A.	N.A.
1381	Drilling Oil and Gas Wells	N.A.	47
1382	Oil and Gas Field Exploration Services	.2	9
1389	Oil and Gas Field Services, NEC	N.A.	58
141	Dimension Stone	.09	3
142	Crushed and Broken Stone Including Riprap	N.A.	39
1452	Bentonite	.03	0.9
1453	Fire Clay	.02	0.7
1454	Fuller's Earth	.03	1
1455	Kaolin and Ball Clay	.14	4
1459	Clay, Ceramic, and Refractory Minerals, NEC	.08*	3
1472	Barite	.02	0.1
1473	Flourspar	.02	0.1
1474	Potash, Soda, and Borate Minerals	.24 b/	6
1475	Phosphate Rock	.2	N.A.
1476	Rock Salt	.09	5*
1477	Sulphur	.19	3
1479	Chemical and Fertilizer Mineral Mining, NEC	N.A.	2
148	Nonmetallic Minerals (Except Fuels) Services	N.A.	1
149	Miscellaneous Nonmetallic Minerals, Except Fuels	N.A.	7

(Cont'd. 2)

SIC	Description	1972 Shipments ($ Billion)	1972 Employment (Thousands)
Manufacturing			
2082	Malt Beverages (prices only)	4.3	55
2083	Malt (prices only)	.2	2
2085	Distilled, Rectified, and Blended Liquors	1.9	19
2295	Coated Fabrics, Not Rubberized	.8	17
23	Apparel	27.0	1,334
2812	Alkalies & Chlorine	.8	13
2813	Industrial Gases	.6	10
2819	Industrial Inorganic Chemicals, NEC	3.0	61
283	Drugs (wages only)	---	136
2879	Pesticides & Agricultural Chemicals, NEC	1.2	12
2899	Chemicals & Chemical Preparations, NEC	2.4	36
2911	Petroleum Refining-certain portions not subject to FEO regulations (prices only)		
295	Paving & Roofing Materials	1.9	28
2992	Lubricating Oils & Greases (wages only)	---	6
2999	Petroleum & Coal Products	0.2	2
3021	Rubber & Plastic Footwear	.6*	29*
3111	Leather Tanning & Finishing	1.0	24
3131	Boot & Shoe Cut Stock and Findings	.2	11
3151	Leather Gloves & Mittens	.1	5
3161	Luggage	.3	16
3171	Women's Handbags & Purses	.3	21
3172	Personal Leather Goods, Except Handbags & Purses	.3	13
3199	Leather Goods, NEC	.1	6
326	Pottery & Related Products	.8	44
3281	Cut Stone & Stone Products	.3	13
329	Abrasive, Asbestos, Misc. Nonmetallic Mineral Pdts.	3.7*	99*
3356	Rolling Drawing & Extruding of Nonferrous Metals Except Copper & Aluminum	1.3	20
3357	Drawing & Insulating of Nonferrous Wire except Copper related portion	4.2	65
3369	Nonferrous Foundries (Castings), NEC	.5	
339	Miscellaneous Primary Metal Products	.8	22
3411	Metal Cans (wages only)	---	69
3412	Metal Shipping Barrels, Drums, etc. (wages only)	---	10
342	Cutlery, Hand Tools, & General Hardware	5.2	162
343	Heating Equipment, Except Electric & Warm Air; & Plumbing Fixtures	2.6*	70*

(Cont'd. 3)

SIC	Description	1972 Shipments ($ Billion)	1972 Employment (Thousands)
3442	Metal Doors, Sash, Frames, Molding and Trim	1.9	64
3449	Miscellaneous Metal Work (wages only)	---	36*
3451	Screw Machine Products	1.2	44
3462	Iron & Steel Forgings	1.4	34
3463	Nonferrous Forgings	.4	10
3466	Crowns & Closures	.3	8
3469	Metal Stampings, NEC	2.5	91
347	Coating, Engraving, & Allied Services	1.6	75
348	Ordinance & Accessories, Except Vehicles and Guided Missiles	2.7	104
3497	Metal Foil and Leaf	.3	6
3499	Fabricated Metal Products, NEC	1.7	51
3711	Motor Vehicles & Passenger Car Bodies	45.8	359
3713	Trucks & Bus Bodies	1.6	41
3714	Motor Vehicle Parts and Accessories (wages only)	---	401
3715	Truck Trailers	1.0	23
373	Ship & Boat Building & Repairing	4.1	173
375	Motorcycles, Bicycles & Parts	.6	15
3795	Tanks & Tank Components	.4	7
3799	Transportation Equipment, NEC.	.7	19
384	Surgical, Medical & Dental Instruments and Supplies (wages only)	---	87
3861	Photographic Equipment	5.5	90
3873	Clocks, Watches, Clockwork Devices, & Parts	1.0	33
3949	Sporting and Athletic Goods, NEC.	1.5*	55
395	Pens, Pencils, & Other Office & Artists' Matrls.	1.0	33
3962	Feathers, Plumes, & Artificial Trees & Flowers	.1*	4*
3963	Buttons	.1	4
3964	Needles, Pins, Hooks, & Similar Notions	.6*	20*
3991	Brooms & Brushes	.4*	17*
3993	Signs & Advertising Displays	1.1	46
3995	Burial Caskets	.5*	16*
3996	Linoleum, Asphalted-Felt-Base, & Other Hard Surface Floor Coverings, NEC	.3	6
3999	Manufacturing Industries, NEC	1.2	56

(Cont'd. 4)

SIC	Description	1972 Shipments ($ Billion)	1972 Employment (Thousands)
Transportation, Communication, Electric, Gas & Sanitary Services			
401	Railroad Transportation (wages)	---	537.0
412	Taxicabs (wages)	---	104.4
417	Terminal & Service Facilities for Motor Vehicle Passenger Transportation (prices only)	N.A.	4.0*
43	U.S. Postal Service	N.A.	706.4
446	Water Transportation Services (prices only)	N.A.	117.0*
458	Fixed Facilities & Services Related to Air Transportation (prices only)	N.A.	28.0*
46	Pipelines, Except Natural Gas (wages)	---	14.8
472	Arrangement of Transportation (prices only)	N.A.	64.0
474	Rental of Railroad Cars (prices only)	N.A.	1.0
478	Miscellaneous Services Incidental to Transportation (prices only)	N.A.	9.0
481	Telephone Communication	N.A.	927.9
482	Telegraph Communication	N.A.	22.6
4922	Natural Gas Transmission (wages)	---	N.A.
4923	Natural Gas Transmission & Distribution (wages)	---	N.A.
4925	LPG (wages)	---	N.A.
494	Water Supply (wages)	---	22.0
495	Sanitary Services (wages)	---	28.0
496	Steam Supply (wages)	---	2.4
497	Irrigation Systems (Wages)	---	2.4
Wholesale Trade			
5012	Automobiles & Other Motor Vehicles (wages only)	---	101.7
5013	Automotive Parts & Supplies (wages only)	---	238.9
5014	Tires & Tubes	4.4	41.7
502	Furniture & Home Furnishings	11.2	87.0
503	Lumber & Construction Materials	27.8	174.6
504	Sporting, Recreational, Photographic & Hobby Goods, Toys & Supplies	10.3	N.A.

(Cont'd. 5)

SIC	Description	1972 Shipments ($ Billion)	1972 Employment (Thousands)
5052	Coal & Other Minerals & Ores	0.9	N.A.
509	Miscellaneous Durable Goods	10.3	N.A.
511	Paper & Paper Products	14.0	139.2
513	Apparel, Piece Goods & Notions	34.1	145.3
516	Chemicals & Allied Products	20.4	93.4
5181	Beer and Ale (prices only)	N.A.	N.A.
519	Miscellaneous Nondurable Goods	37.0	N.A.
Retail Trade			
551	Motor Vehicle Dealers-New & Used (wages only)	---	732.2
552	Motor Vehicle Dealers-Used Only	N.A.	42.1
553	Auto and Home Supply Stores (wages only)	---	169.1
554	Gasoline Service Stations (wages only)	---	698.1
557	Motorcycle Dealers	N.A.	N.A.
559	Automobile Dealers, NEC.	N.A.	86.0
58	Eating & Drinking Places (Tier I)	1.7	132.1
Finance, Insurance & Real Estate C/			
60	Banking	41.7	1,081
61	Credit Agencies Other than Banking	19.3	380
62	Security & Commodity Brokers, Dealers, Exchanges	5.7	196
631	Life Insurance	49.9	518
632	Health Insurance (wages only)		100.0
633	Fire, Marine & Casualty Insurance (Excluding automobile insurance portion)	N.A.	374
	Auto Insurance portion (wages only)	----	
635	Surety Insurance, except professional liability insurance for providers of health care	N.A.	3
	Professional liability insurance for providers of health care (wages only)	----	

(Cont'd. 6)

SIC	Description	1972 Shipments ($ Billion)	1972 Employment (Thousands)
636	Title Insurance	N.A.	27
637	Pension, Health, & Welfare Funds	N.A.	N.A.
639	Insurance Carriers, NEC.	N.A.	19
64	Insurance Agents, Brokers, and Service	6.2	292
65	Real Estate	30.5	815
66	Combinations of Real Estate, Insurance, Loans, Law Offices	.6	37
67	Holding and Other Investment Companies	6.6	76
Services C/			
70	Hotels, Rooming Houses, Camps, & Other Lodging Places	8.6	828.5
72	Personal Services	13.0	917.1
732	Credit Reporting & Collection Agencies	N.A.	66.3
734	Services to Dwellings and Other Buildings	2.2	317.7
735	Personnel Supply Services	N.A.	51.4
737	Computer & Data Processing Services	2.6	N.A.
7391	Research & Development Laboratories	N.A.	74.1
7392	Management, Consulting and Public Relations Services (Management consulting portion)	N.A.	N.A.
7393	Detective & Protective Services	N.A.	182.6
7394	Equipment Rental & Leasing Services	N.A.	73.5
7396	Trading Stamp Services	N.A.	5.3
7397	Commercial Testing Laboratories	N.A.	18.2
7399	Business Services, NEC.	N.A.	194.0
75	Auto Repair, Services, & Garages	12.3	405.9
76	Miscellaneous Repair Services	6.2	212.5
78	Motion Pictures	11.9	186.5
79	Amusement & Recreation Services		467.7
81	Legal Services	7.7	269.9
82	Educational Services (Except public employees)	89.9	959.9
83	Social Services (Except public employees)	N.A.	N.A.
84	Museums, Art Galleries, Botanical, Zoological Gardens (Except public employees)	N.A.	20.4

(Cont'd. 7)

SIC	Description	1972 Shipments ($ Billion)	1972 Employment (Thousand
86	Membership Organizations	N.A.	124.8
89	Miscellaneous Services	N.A.	620.9
99	Nonclassifiable Establishments	N.A.	476.0*

Note: Both price and wages are exempt unless otherwise indicated. Executive compensation remains under controls. These figures are not adjusted to exclude previous exemptions. Moreover, these data represent gross receipts and shipments and thus reflect considerable double-counting.

a/ Prices and wages are exempt except in those sectors that are subject to food and construction industry regulations. Today's action has no effect on the coverage of industries that are subject to Phase IV food and construction regulations.

b/ 1971 data.

c/ Finance, insurance and real estate "shipments" are 1970 total receipts data from IRS. "Shipments"data shown for services are 1972 receipts.

* Figures either have associated standard errors exceeding 15 percent or are not consistent with other census series and related data.

Sources:

Advance Report 1972 Census of Manufacturers, Bureau of the Census

1972 County Business Patterns, Bureau of the Census.

Business Income Tax Returns, 1970, IRS.

1972 Census of Selected Services, Bureau of the Census.

Monthly Receipts of Selected Services, Bureau of the Census.

Employment and Earnings, BLS.

Monthly Wholesale Trade, Bureau of the Census.

Monthly Retail Trade, Bureau of the Census.

Table 3

Phase IV Coverage of the CPI After Today's Announcement - April 1, 1974

Item	Relative Importance	Percent Covered by Phase IV	Controlled Relative Importance 1/
Food			
Food at Home	17.494	69%	12.071
Housing			
Fuel Oil & Coal (retail)	0.655	100	.655
Transportation			
Auto Purchase	4.116	28	1.152
Auto Parts	.643	28	.180
Gasoline and Motor Oil	2.902	100	2.902
Auto Insurance Rates	1.815	93	1.688
Health Services			
Professional Services	2.916	100	2.916
Daily Service Charges	.636	100	.636
Hospital Insurance	2.023	100	2.023
Total Coverage of the CPI (after today's announcement)			24.223%

1/ CPI relative importance adjusted to exclude industry exemptions, imports, and the small business exemption.

Table 3
(continued)

Phase IV Coverage of the WPI After Today's Announcement - April 1, 1974

Item	Relative Importance	Percent Covered by Phase IV	Controlled 1/ Relative Importance
Consumer Items and Related Goods			
Processed Foods and Feeds	17.210	55.1%	9.484%
Meat, Poultry, Fish	4.903	85.6	4.197
Other Processed Foods	12.307	43.0	5.287
Nonfood Consumer Items	4.304	93.2	4.013%
Household Appliances, Floor Coverings	1.988	90.0	1.789
Tobacco	0.783	100.0	.783
Drugs, Soaps, Toilet preps.	1.533	94.0	1.441
Industrial Commodities			
Metals and Metal Products	13.000	46.7	6.073%
Iron Ore, Steel Mill Products	3.536	79.0	2.793
Copper (ores, bar, mill shapes, wires cable, brass and copper foundries)	1.377	83.4	1.149
Other Metal Products (Metal Cans, Auto & Stampings, Springs, etc.)	2.697	79.0	2.131
Machinery and Equipment	11.771	51.0	5.999%
Electrical Machinery & Equipment	4.019	74.0	2.975
Nonelectrical Mach. & Equipment	7.752	39.0	3.024
Other Industrial Commodities	19.956	59.5	11.876%
Textiles	3.323	88.0	2.925
Chemicals exc. Drugs & Consumer items (includes Profit Controlled)	3.907	34.5	1.349
Fuels and Related Products and Power (FEO)	7.141	54.5	3.980
NonMetallic Minerals (stone, clay, glass, etc)	3.175	57.7	1.831
Others (including Tier I Profit Controlled Misc. Plastic Products, auto parts, R.R. equip.)	2.410	78	1.881
Total Coverage of the WPI (after today's announcement)			37.445%

1/ WPI relative importance adjusted to exclude industry exemptions, imports and the small business exemption.

Table 3
(continued)

Phase IV Coverage of the Labor Force After Today's Announcement - April 1, 1974

Sector	Total Employment (000)	Relative Importance	Percent Currently Covered By Phase IV	Controlled Relative Importance 1/
Construction	3,740.0	4.96	83%	4.2
Manufacturing & Mining	19,317.0	25.63	16%	4.2
Transportation & P.U.	4,531.0	6.01	47%	2.8
Wholesale Trade	3,956.0	5.24	17%	.9
Retail Trade	11,697.0	15.52	7%	1.2
Finance, Ins., Real Estate	3,990.0	5.29	0%	---
Services	12,489.0	16.57	17%	2.9
Private H.H. Workers	1,176.0	1.56	0%	---
State & Local Government	10,479.0	13.90	75%	10.6
Federal Government	2,631.0	3.49	0%	---
Post Office	679.0	0.90	0%	---
Agriculture	753.0	0.99	0%	---
Total Full-Time Employment	75,358.5	100%		26.8%

Current Phase IV Coverage of the Labor Force: 26.8%

1/ Adjusted to exclude industry wage exemptions, the small business exemption, and the low-wage exemption.

TABLE 4

INDUSTRIES REMAINING UNDER PHASE IV CONTROLS - APRIL 1, 1974

SIC	Description	Prices and Wages	Prices Only	Wages Only
101	Iron Ores	X		
102	Copper Ores	X		
103	Lead and Zinc Ores			X
144	Sand and Gravel	X		
15	Building Construction - General Contractors and Operative Builders	X		
16	Construction Other than Building Construction - General Contractors	X		
17	Construction - Special Trade Contractors	X		
20	Food and Kindred Products, with the exception of Malt Beverages (2082), Malt (2083), and Distilled, Rectified and Blended Liquors (2085)	X		
2082	Malt Beverages			X
2083	Malt			X
21	Tobacco Manufacturers	X		
22	Textile Mill Products, except Coated Fabrics, Not Rubberized (2295)	X		
26	Paper and Allied Products - those companies which have not accepted commitments		X	
2711	Newspapers			X

SIC	Description	Prices and Wages	Prices Only	Wages Only
283	Drugs		X	
284	Soap, Detergents, and Cleaning Preparations, Perfumes, Cosmetics, and Other Toilet Preparations	X		
2911	Petroleum Refining[1/]	X		
2992	Lubricating Oils and Greases[1/]		X	
321	Flat Glass	X		
322	Glass and Glassware, Pressed or Blown	X		
323	Glass Products, Made of Purchased Glass	X		
325	Structural Clay Products	X		
327	Concrete, Gypsum, and Plaster Products	X		
331	Blast Furnaces, Steel Works, and Rolling and Finishing Mills	X		
3331	Primary Smelting and Refining of Copper	X		
3341	Secondary Smelting and Refining of Nonferrous Metals, copper-related portion	X		
3351	Rolling, Drawing, and Extruding of Copper	X		
3357	Drawing and Insulating of Nonferrous Wire, copper-related portion	X		
3362	Brass, Bronze, Copper, Copper Base Alloy Foundries (Castings)	X		
3411	Metal Cans		X	
3412	Metal Shipping Barrels, Drums, Kegs, and Pails		X	
3441	Fabricated Structural Metal	X		
3443	Fabricated Plate Work	X		

SIC	Description	Prices and Wages	Prices Only	Wages Only
3444	Sheet Metal Work	X		
3446	Architectural and Ornamental Metal Work	X		
3448	Prefabricated Metal Buildings and Components	X		
3449	Miscellaneous Metal Work		X	
3465	Automotive Stampings		X	
3493	Steel Springs, except Wire	X		
3494	Valves and Pipe Fittings, except Plumbers Brass Goods	X		
3495	Wire Springs	X		
3496	Miscellaneous Fabricated Wire Products	X		
3498	Fabricated Pipe and Fabricated Pipe Fittings	X		
35	Machinery, except Electrical	X		
36	Electrical and Electronic Machinery, Equipment, and Supplies	X		
3714	Motor Vehicle Parts and Accessories		X	
374	Railroad Equipment	X		
384	Surgical, Medical, and Dental Instruments and Supplies		X	
404	Railway Express Service			X
41	Local and Suburban Transit and Interurban Highway Passenger Transportation, except Taxicabs (412)			X
42	Motor Freight Transportation and Warehousing, except Public Warehousing (422) and Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation (423)			X
422	Public Warehousing	X		
423	Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation	X		

SIC	Description	Prices and Wages	Prices Only	Wages Only
44	Water Transportation			X
45	Transportation by Air			X
47	Transportation Services			X
491	Electric Services			X
4924	Natural Gas Distribution			X
493	Combination Electric and Gas, and Other Utility Services			X
50,51	Wholesale Trade: All Wholesale Trade Related to the Industries Retained Under Controls, Plus:		X	
	5012 Automobiles and Other Motor Vehicles		X	
	5013 Automotive Parts and Supplies		X	
	512 Drugs, Drug Proprietaries and Druggists' Sundries	X		
	514 Groceries and Related Products	X		
	515 Farm-Product Raw Materials	X		
	517 Petroleum and Petroleum Products 1/	X		
	5181 Beer and Ale			X
	5182 Wines and Distilled Beverages	X		
54	Food Stores	X		
551	Motor Vehicle Dealers (New and Used)		X	
553	Auto and Home Supply Stores		X	
554	Gasoline Service Stations 1/		X	
5983	Fuel Oil Dealers 1/	X		
5984	Liquified Petroleum Gas Dealers 1/	X		
6331	Fire, Marine, and Casualty Insurance - Automobile Insurance portion		X	
632	Health Insurance		X	

SIC	Description	Prices and Wages	Prices Only	Wages Only
635	Surety Insurance - Liability Insurance for Medical Practitioners and Other Providers of Health Care		X	
80	Health Services	X		
90-97	Public Administration 2/			X

Note: Today's action does not affect portions of these SIC groups which have previously been exempted from Phase IV regulations. It should be noted that producers of some products in SIC's 28, 3079, and others, while exempted from price prenotification, remain subject to profit margin controls.

1/ Phase IV price controls are retained only on those products currently subject to Federal Energy Office regulation. Today's action has no effect on the delegation of price authority to the FEO.

2/ All public employees remain subject to Phase IV wage regulations regardless of SIC classification.

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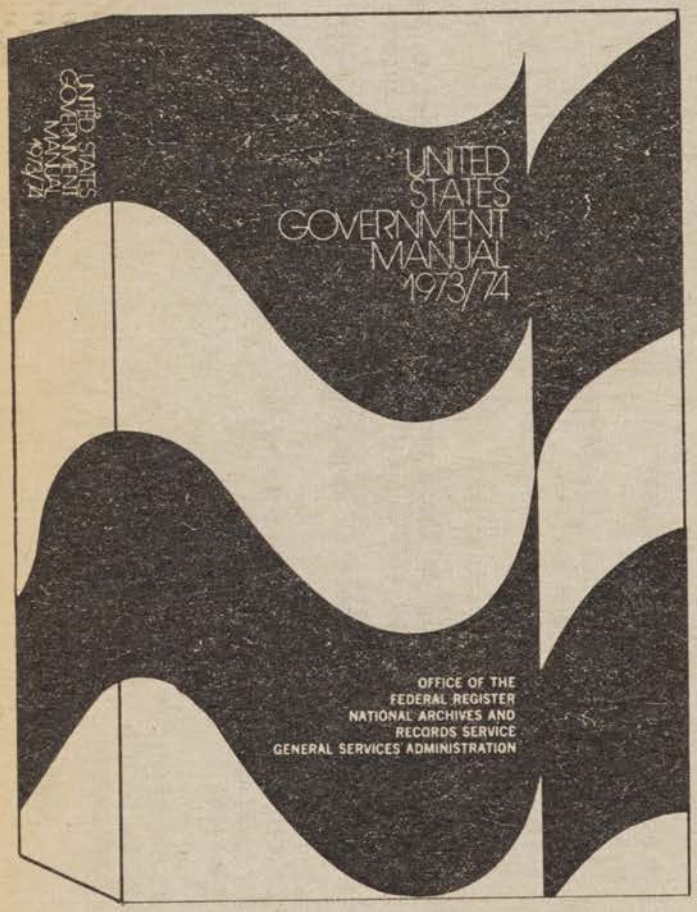

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