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PART I

HIGHLIGHTS OF THIS ISSUE

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

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reminders

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

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list of cfr parts affected

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

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

presidential documents

Title 3—The President

EXECUTIVE ORDER 11783

Creating an Emergency Board to Investigate a Dispute Between the Carriers Represented by the National Railway Labor Conference and Certain of Their Employees

WHEREAS, a dispute exists between the carriers represented by the National Railway Labor Conference designated in lists attached hereto and made a part hereof, and certain of their employees represented by the Sheet Metal Workers' International Association, a labor organization; and

WHEREAS, this dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

WHEREAS, this dispute, in the judgment of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive sections of the country of essential transportation service:

NOW, THEREFORE, by virtue of the authority vested in me by section 10 of the Railway Labor Act, as amended (45 U.S.C. 160), I hereby create a Board, of three members, to be appointed by me, to investigate this dispute. No member of the Board shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier.

The Board shall report its finding to the President with respect to this dispute within thirty days from the date of this order.

As provided by section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the Board has made its report to the President, no change, except by agreement, shall be made by the carriers represented by the National Railway Labor Conference, or by their employees, in the conditions out of which the dispute arose.

Richard Nixon

THE WHITE HOUSE,
May 21, 1974.

Alton & Southern Railway
Ann Arbor Railroad
Atchison, Topeka and Santa Fe Railway
Atlanta and West Point Rail Road—The Western Railway of Alabama
Atlanta Joint Terminals
Baltimore and Ohio Railroad [1]

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[1] Authorization also covers Supervisors below the rank of General Foreman employed in the Mechanical Department

Baltimore and Ohio Chicago Terminal Railroad
Bangor and Aroostook Railroad
Belt Railway Company of Chicago
Bessemer and Lake Erie Railroad
Burlington Northern, Inc.
Camas Prairie Railroad
Central of Georgia Railroad
Central Vermont Railway, Inc.
Chesapeake and Ohio Railway
Chicago and Eastern Illinois Railroad
Chicago and Illinois Midland Railway
Chicago and North Western Transportation Company
Chicago and Western Indiana Railroad
Chicago, Milwaukee, St. Paul and Pacific Railroad
Chicago, Rock Island and Pacific Railroad
Chicago, West Pullman and Southern Railroad
Cincinnati Union Terminal Company
Clinchfield Railroad
Colorado and Wyoming Railway
Delaware and Hudson Railway
Denver and Rio Grande Western Railroad
Detroit and Toledo Shore Line Railroad
Duluth, Missabe and Iron Range Railway
Duluth, Winnipeg and Pacific Railway
Elgin, Joliet and Eastern Railway
Erie Lackawanna Railway*
Fort Worth and Denver Railway
Georgia Railroad
Grand Trunk Western Railroad
Green Bay and Western Railroad
Houston Belt and Terminal Railway
Illinois Central Gulf Railroad
Illinois Terminal Railroad
Indiana Harbor Belt Railroad
Indianapolis Union Railway
Jacksonville Terminal Company
Joint Texas Division of CRI&P Railroad and FW&D Railway
Kansas City Southern Railway
Kansas City Terminal Railway
Kentucky & Indiana Terminal Railroad
Lake Superior & Ishpeming Railroad
Louisiana and Arkansas Railway
Louisville and Nashville Railroad
Maine Central Railroad
Portland Terminal Company
Missouri-Kansas-Texas Railroad Company
Missouri Pacific Railroad [2]
Missouri-Illinois Railroad

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*Subject to the approval of the Courts
[2] Authorization includes Reclamation Plant, Sedalia, Missouri

Monongahela Railway
Montour Railroad
Newburgh and South Shore Railway
New Orleans Public Belt Railroad
New Orleans Union Passenger Terminal
New York, Susquehanna and Western Railroad
Norfolk and Portsmouth Belt Line Railroad
Norfolk and Western Railway
Northwestern Pacific Railroad
Peoria and Pekin Union Railway
Pittsburgh and Lake Erie Railroad—The Lake Erie & Eastern Railroad
Portland Terminal Railroad Company
Richmond, Fredericksburg and Potomac Railroad, including Potomac Yard
St. Louis-San Francisco Railway [3]
St. Louis Southwestern Railway
Saint Paul Union Depot Company
San Diego and Arizona Eastern Railway
Seaboard Coast Line Railroad
Soo Line Railroad
Southern Pacific Transportation Company (Pacific Lines Texas and Louisiana Lines)
Southern Railway
  Alabama Great Southern Railroad
  Cincinnati, New Orleans & Texas Pacific Railway
  Georgia Southern and Florida Railway
  New Orleans Terminal Company
  St. Johns River Terminal Company
Staten Island Railroad Corporation [1]
Terminal Railroad Association of St. Louis
Texas and Pacific Railway
Texas Mexican Railway
Texas Pacific-Missouri Pacific Terminal Railroad of New Orleans [4]
Toledo, Peoria and Western Railroad
Union Pacific Railroad
Washington Terminal Company
Western Maryland Railway
Western Pacific Railroad

[FR Doc.74–12054 Filed 5–21–74;4:47 pm]

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[3] Authorization includes AT&N District
[4] Authorization includes Midland Valley Subdivision

rules and regulations

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-853; Amdt. 20; Docket No. 26317]

PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Logair and Quicktrans Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on May 17, 1974.

On January 15, 1974, by notice of proposed rulemaking EDR-262 (39 FR 2491), the Board proposed to amend Part 288 of its Economic Regulations (14 CFR Part 288) by establishing new minimum rates for Logair and Quicktrans domestic cargo charters performed for the Department of Defense (DOD). In addition to initiating a full-scale Logair/Quicktrans rate review proceeding, the Board proposed the establishment of interim final rates effective on and after January 15, 1974, increasing the net Logair/Quicktrans compensation by approximately 10 percent pending completion of the full-scale review. This procedure is patterned after one adopted by the Board in ER-819, August 28, 1973, amending Part 288 with respect to minimum rates for certain foreign and overseas transportation services procured for DOD by the Military Airlift Command (MAC).

Comments were filed by Overseas National Airways, Inc. (ONA), Saturn Airways, Inc. (Saturn) and the DOD. All comments and supporting materials have been carefully considered and all contentions not otherwise disposed of herein are rejected.

I. *DC-9/L-188 Logair/Quicktrans Rates.* By EDR-262, the Board proposed increased DC-9/L-188 Logair/Quicktrans minimum rates per course-flown statute mile of $1.8152 and $1.7079, respectively, plus $150 per directed landing. The proposed rates were based upon an analysis of the reported results for ONA and Saturn for the year ended September 30, 1973, adjusted to conform to the Board's established ratemaking policies and practices. Both ONA and Saturn take issue with these proposed rates, whereas the DOD accepts the Board's proposal as being consistent with the interim final rate concept.

ONA proposes Logair/Quicktrans interim rates per course-flown statute mile of $1.9563 and $2.1388, respectively, plus $150 per directed landing, based upon its reported results for the year ended March 31, 1973, adjusted to reflect JP-4 fuel costs of 11.3 cents per gallon which is the amount proposed in EDR-262 as the standard fuel cost to be effective on January 15, 1974.[1] ONA does not address itself to the Board's proposed rate determination. However, review of the data supporting ONA's rate proposals indicates that the major differences, other than the Board's use of more current information,[2] are that ONA based its return element on investment as of March 31, 1973, rather than on average annual investment; and it premised the rate computations on a 400-mile stage length, as recognized for such services in reaching the current rate findings in ER-733, rather than the base-year experience. As set out in Appendices A and B, a recasting of the carrier's DC-9 and L-188 cost computations, to reflect actual stage lengths, average investment and recognized aircraft utilization,[3] produces close to the same Logair rate proposed in EDR-262.

The Board, in adopting the interim final rate procedure, indicated that the concept was to provide for updated minimum MAC rates based on the latest available results so as to maintain fair and reasonable compensation for MAC services pending completion of the full-scale rate review. This was the basis for the Board's DC-9/L-188 rate determinatons in EDR-262, which ONA did not directly challenge, and, in our opinion, the carrier's own cost analysis properly adjusted fully supports the proposed rates. Further, ONA's proposed Quicktrans rates assume that the relationship of Quicktrans to Logair costs have remained the same since 1970. The experienced results indicate, however, that this is not the case. Therefore, on the basis of the foregoing, we reject ONA's proposed DC-9/L-188 Logair/Quicktrans interim final rates.

The Board's proposed DC-9/L-188 Quicktrans rate is based solely upon the reported results for Saturn's L-188 aircraft since it was the only carrier operating either of the two aircraft types in Quicktrans service during the base year.

ONA and Saturn both argue that the proposed Quicktrans rates for the DC-9/L-188 should be based on more than one carrier's experience with a specific aircraft type. Both carriers believe the MAC rate should represent costs for all available equipment eligible to perform MAC services whether utilized or not. Saturn claims that ONA could bid its equipment in FY 1975 and that, even for interim final rate purposes, at least ONA's ownership costs—investment and depreciation—should be taken into account in the Quicktrans rate determination. The carriers contend that to do otherwise, undermines the class rate concept of Part 288. Saturn also objects to the proposed rates on the grounds that the exclusion of ONA's ownership cost distorts the historic relationship between Logair-Quicktrans rates.

Our treatment here is consistent with the Board's interim final rate determinations in ER-819, wherein the data for carriers which were not participating or would not participate in past or future MAC contract services were deleted.[4] Saturn's L-188 operation represents the only experienced data available which includes the current MAC contracts through at least fiscal year 1974. Should the circumstances change and ONA become a Quicktrans contractor with its DC-9 and/or L-188 aircraft, it could at that time challenge the reasonableness of the then-existing rates.

Saturn objects to the Board's proposed adjustments of experienced aircraft utilization to the levels underlying the current rates as established in ER-733.[5] The carrier contends that this is inconsistent with the Board's action in ER-819, wherein we recognized the carriers' experienced utilization as being reasonable in light of the contraction of MAC service volume and a favorable comparison with the utilization realized in commercial operations. Saturn concludes that the Board should, therefore, recognize the higher of L-188/DC-9 utilization attained in either the MAC domestic or system operations for each equipment type.

The carriers' reported utilizations, which are as low as 5.5 hours, on their face raise questions of whether or not the carriers' fleets are in excess of their needs, and whether or not reliance on those figures would result in charging the MAC operations with the cost of excess aircraft maintained for commercial operations. Furthermore, Saturn has not shown that the nature of domestic MAC charter operations requires these low utilizations, that the reductions in MAC services have caused the low

[1] The suggested Logair rate is based on reported results for ONA's operations while the Quicktrans rate proposal is derived by using the same relationship obtained from the current Quicktrans-to-Logair rates.

[2] EDR-262 is predicated on reported results for the year ended September 30, 1973.

[3] ONA does not dispute the Board's adjustment in EDR-262 increasing the reported utilization.

[4] ER-819, August 28, 1973, on page 10.

[5] The levels forecast in ER-733 were as follows:

utilizations, or that the utilizations employed in EDR–262 are not reasonably attainable. On this basis, we cannot find that use of the reported utilizations for interim rate purposes would be warranted.

Saturn	
L–100:	
Logair	9.0
Quicktrans	8.5
ONA	
DC–9:	
Logair	8.0
Quicktrans	7.5
L–188:	
Logair	7.5
Quicktrans	7.5

In summary, we will amend Part 288 to establish the DC–9/L–188 Logair and Quicktrans interim final minimum rates proposed in EDR–262.

II. *DC–8–61/63 Logair/Quicktrans Rates.* Subsequent to the issuance, of EDR–262, Saturn, on January 25, 1974, filed a supplement to its petition in Docket 26136, which was consolidated in this proceeding, setting forth recommendations for revised DC–8 Logair/Quicktrans interim final rates. Saturn expressed its desire for an updated DC–8 rate, contending that MAC is contemplating use in the near future, of this equipment in domestic services. The carrier, therefore, presented what it considers a realistic proposal based on current costs. While the carrier acknowledged that immediate action on its DC–8 rate recommendations is not necessary, and would not wish such consideration to delay fixing of the Logair/Quicktrans interim final rates for equipment now being used, it stated that MAC is entitled to such information in evaluating the cost-effectiveness of utilizing DC–8 equipment in future domestic services.

Based on an assumed stage length of 488 miles and 8.1 hours average daily utilization, Saturn has reworked its forecast for the international MAC services with DC–8 aircraft and arrived at proposed Logair and Quicktrans[6] interim final rates per course-flown statute mile of $4.4421 and $4.5147, respectively, plus $275 per directed landing.

ONA also submitted recommendations for DC–8 rates, basing its computations on an average stage length of 650 miles and an average daily utilization of 8.0 hours. It proposed DC–8 rates for Logair/Quicktrans operations of $4.2292 and $4.3127 per course-flown statute mile plus $275 per directed landing.

DOD, taking cognizance of Saturn's supplemental petition, has also submitted proposed DC–8 rates. However, DOD anticipates that DC–8 use in domestic MAC operations would be at stage lengths of 700 and 592 miles for Logair and Quicktrans services, respectively, and has revised Saturn's proposal accordingly. As set out in Appendix C inclusive of fuel costs,[7] DOD is proposing DC–8 Logair and Quicktrans rates of $4.3262 and $4.3779 per course-flown statute mile, respectively, plus $275 per directed landing.

We agree with DOD that economies of operation would dictate a longer stage length for DC–8 services than the average experience in MAC domestic charters, and its proposals of 700 miles for Logair and 592 miles for Quicktrans appear reasonable. Moreover, the Board agrees that the present DC–8 rates are unreasonably low in view of the current cost estimates for operations with this aircraft type. Accordingly, we will accept the DOD proposal for Logair/Quicktrans DC–8 rates, as computed in Appendix C[8]—including estimated fuel costs. Since the amended DC–8 rates were not proposed in EDR–262, we will allow petitions for reconsideration of this amendment. Twelve (12) copies of such petitions shall be filed with the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 on or before June 6, 1974. Copies of any petition filed will be available for inspection by interested persons in the Docket Section. The filing of petitions shall not operate to stay the effective date of the within rule amendments.

III. *Other matters.* Saturn suggests that the rates for AW–650 and DC–6A aircraft be deleted. The carrier contends that neither aircraft are in MAC contractor fleets and there is no reason to think that MAC will seek to use these obsolete aircraft. Saturn's recommendation has merit and we will delete the AW–650 and DC–6A Logair/Quicktrans rates.

DOD's answer indicates that with respect to Logair service it is planning to supply fuel to the carriers at no cost as the simplest method of dealing with the fuel problem. As a result, it seeks to have fuel costs removed entirely from the Logair minimum rates. However, DOD states that the Navy is unable, at this time, to implement the proposal with respect to Quicktrans services. Although the end result of the DOD proposal is the same as would be achieved pursuant to the proposed rates, we believe that there may be merit to handling the matter as suggested. However, we think that this matter is best deferred for consideration within the full-scale rate review. This will permit additional time for the participating carriers to consider the proposal and for DOD to seek resolution of the difficulties that currently do not allow the proposal to apply to Quicktrans operations.[9]

For the reasons set forth above, we have determined to adjust the minimum MAC domestic rates established by ER–747, effective on and after January 15, 1974.[10] Also, we find good cause exists for making the rule effective prior to the expiration of the normal 30 day's notice.

Amendments. In consideration of the foregoing, the Board hereby amends Part 288 of the Economic Regulations (14 CFR Part 288) as follows:

Revise § 288.7 (b) as follows:

§ 288.7 Reasonable level of compensation.

* * * * *

(b) For Logair and Quicktrans services, other than specified in paragraph (c) of this section:

(1) For services provided on and after January 15, 1974:

Aircraft type	Linehaul rate per course-flown statute mile		Rates per directed landing
	Logair	Quicktrans	
DC–9–30	$1.8152	$1.7079	$150
L–188C	1.8152	1.7079	150
L–100–20/30	2.2357	2.3033	150
DC–8–61/63	4.3262	4.3779	275

Provided, however, That, effective January 15, 1974, if the price of any fuel product purchased from DOD for such services varies from the base levels specified below, the total minimum compensation for the transportation provided shall be adjusted (either upward or downward, as the case may be) by the difference in the price per gallon for such product paid by the carrier and the price specified for such product below, times the number of U.S. gallons of such product purchased by the carrier from DOD for the transportation provided. The base levels are as follows:

	Standard price per U.S. gallon
AVGAS:	
115/145	$0.20
100/130	.38
91/96	.38
80/87	.38
Jet:	
JP–4	.113
JP–5	.123

* * * * *

(Secs. 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))

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.74–11910 Filed 5–22–74;8:45 am]

[6] The Quicktrans rate proposal is based on the Logair rate determination adjusted to reflect the higher JP–5 fuel price of 12.3 cents per gallon.

[7] As discussed later herein, DOD submitted a proposal to provide military fuel without cost for Logair services and to reimburse the carriers for commercial fuel costs incurred in domestic MAC services. Thus, it has excluded such expense in its proposed DC–8 rates.

[8] Appendices A, B, and C are filed as part of the original document.

[9] It is noted that results reported on Form 243 for Logair/Quicktrans services currently do not set out fuel costs as a separate expense item.

[10] As previously set forth, this is the date the notice originally provided for the increased rates to be effective. The DOD in its comment indicated that it did not object to finalization of the proposed rates retroactive to that date.

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7314]

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

Treatment of Interest on a Section 4912(c) Debt Obligation

By a notice of proposed rulemaking appearing in the FEDERAL REGISTER for October 12, 1973 (38 FR 28295), amendments to the Income Tax Regulations (26 CFR Part 1) were proposed in order to conform such regulations to subparagraph (G) of section 861(a)(1) of the Internal Revenue Code of 1954, relating to the treatment of interest on a section 4912(c) debt obligation, as added by section 3(a) of the Interest Equalization Tax Extension Act of 1971 (85 Stat. 15).

Section 861(a)(1)(G) of the Internal Revenue Code was enacted in conjunction with section 4912(c) of the Code which provides, in effect, that a domestic corporation or partnership may elect to have certain debt obligations it issued subject to the interest equalization tax. Section 861(a)(1)(G) provides that interest paid by the issuing company or partnership on certain debt obligations with respect to which it has made a section 4912(c) election shall not be treated as U.S. source income. This has the effect of exempting such interest from the 30-percent U.S. withholding tax when it is paid to a nonresident alien individual or a foreign corporation.

The amendment to the regulations enumerates the conditions which must be met before the interest on certain debt obligations would not be treated as U.S. source income. The debt obligation must be part of an issue of debt obligations with respect to which an election has been made under section 4912(c). Such a debt obligation cannot have a maturity exceeding 15 years on the date it was originally issued or treated under section 4912(c)(2) as issued by reason of being assumed. When such debt obligation was originally issued it must have been purchased by one or more underwriters with a view to distribution through resale. If the preceding conditions are met, interest on a debt obligation attributable to periods after the effective date of the section 4912(c) election will not be treated as U.S. source income.

Based upon comments received from interested parties, certain changes were made to the regulations as originally proposed. The first such change occurs in § 1.861–2(d)(3) where additional language was added in order to illustrate that a "best-efforts" underwriter is not regarded as someone who purchased with an intent to resell. In addition, language was added to indicate that nothing in the regulations would prohibit the use by an issuer of a related underwriter. Since each instance where an issuer uses a related underwriter is to be decided on the individual facts and circumstances, the regulations provide that consideration shall be given as to whether the conditions governing the purchase of the debt obligation by the underwriter from the issuer are those which would have been imposed between independent persons.

Subdivision (ii) of § 1.861–2(d)(4) was amended by extending the time an underwriter has to register the debt obligations for trading on a foreign securities exchange or market from 15 calendar days to the latter of 4 months from the date on which the underwriter purchased the debt obligations or the date of the first interest payment. Additional language was also added for the purpose of defining what was meant by the term "foreign established securities market".

Language was added to the introductory language of § 1.861–2(d)(4)(iii) to clarify the point that in evaluating restrictions as to whom an underwriter may sell debt obligations, the material factor is whether such restriction was imposed by the issuer; if so, the restriction will prevent the debt obligations from qualifying under section 861(a)(1)(G) and these regulations. Subdivision (A) of § 1.861–2(d)(4)(iii) was changed to permit each obligation of an issue of debt obligations to qualify as purchased for resale if at least 95 percent of the face amount of the issue, of which it is a part, was sold by the underwriter within 30 days after he purchased it. Language was also added to subdivision (B) to make it clear that any written statements or assurances of the underwriter are to be taken into account under the facts and circumstances test to determine whether the debt obligation was purchased with a view to distribution through resale. The burden of showing satisfaction of that test was also removed from the exclusive realm of the underwriter.

In addition, subdivision (iv) was amended to deal with the situation where restrictions are required to be met in order to comply with United States or foreign law. One such example is the exemption from the Securities and Exchange Commission registration requirements for securities which are not sold to United States persons or to persons who will resell to United States persons.

The proposed regulations were also revised by adding two new subparagraphs. The first, new subparagraph (6), provides that the provisions of section 861(a)(1)(G) and these regulations will apply to interest paid on debt obligations, even if the interest equalization tax expires, if such debt obligations are subject to a section 4912(c) election made prior to such expiration. The second, new subparagraph (7), adds a definition of the term "underwriter" by cross referencing to the definition of the term in section 4919(c)(1).

Adoption of amendments to the regulations. On October 12, 1973, a notice of proposed rule making was published in the FEDERAL REGISTER (38 FR 28295) to conform the Income Tax Regulations (26 CFR Part 1) to subparagraph (G) of section 861(a)(1) of the Internal Revenue Code of 1954, relating to the treatment of interest on a section 4912(c) debt obligation, as added by section 3(a) of the Interest Equalization Tax Extension Act of 1971 (85 Stat. 15). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

Section 1.861–2(d), as set forth in the appendix to the notice of proposed rulemaking is changed by revising subparagraphs (3) and (4) thereof, and by adding new subparagraphs (6) and (7). The revised and new subparagraphs read as set forth below.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: May 17, 1974.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

§ 1.861–2 Interest.

* * * * *

(d) *Section 4912(c) debt obligations*—(1) *In general.* Under section 861(a)(1)(G), interest on a debt obligation shall not be treated as income from sources within the United States if—

(i) The debt obligation was part of an issue of debt obligations with respect to which an election has been made under section 4912(c) (relating to the treatment of such debt obligations as debt obligations of a foreign obligor for purposes of the interest equalization tax),

(ii) The debt obligation had a maturity not exceeding 15 years (within the meaning of subparagraph (2) of this paragraph) on the date it (A) is originally issued, or (B) is treated under section 4912(c)(2) as issued by reason of being assumed by a certain domestic corporation,

(iii) The debt obligation, when originally issued, was purchased by one or more underwriters (within the meaning of paragraph (d)(3) of this section) with a view to distribution through resale (within the meaning of paragraph (d)(4) of this section), and

(iv) The interest on the debt obligation is attributable to periods after the effective date of an election under section 4912(c) to treat such debt obligations as debt obligations of a foreign

obligor for purposes of the interest equalization tax.

(2) *Maturity not exceeding 15 years.* The date the debt obligation is issued or treated as issued is not included in the 15 year computation, while the date of maturity of the debt obligation is included in such computation.

(3) *Purchased by one or more underwriters.* For purposes of this paragraph, the debt obligation when originally issued will not be treated as purchased by one or more underwriters unless the underwriter purchases the debt obligation for his own account and bears the risk of gain or loss on resale. Thus, for example, a debt obligation, when originally issued will not be treated as purchased by one or more underwriters if the underwriter acts only in the capacity of an agent of the issuer. Neither will a debt obligation when originally issued be treated as purchased by one or more underwriters if the agreement between the underwriter and issuer is merely for a "best efforts" underwriting, for the purchase by the underwriter of all or a portion of the debt obligations remaining unsold at the expiration of a fixed period of time, or for any other arrangement under the terms of which the debt obligations are not purchased by the underwriter with a view to distribution through resale. The fact that an underwriter is related to the issuer will not prevent the underwriter from meeting the requirements of this paragraph. In determining whether a related underwriter meets the requirements of this paragraph, consideration shall be given to whether the purchase by the underwriter of the debt obligation from the issuer for resale was effected by a transaction subject to conditions similar to those which would have been imposed between independent persons.

(4) *With a view to distribution through resale.* (i) An underwriter who purchased a debt obligation shall be deemed to have purchased it with a view to distribution through resale if the requirements of subdivision (ii) or (iii) of this subparagraph are met.

(ii) The requirement of this subdivision is that—

(A) The debt obligation is registered, approved, or listed for trading on one or more foreign securities exchanges or foreign established securities markets within 4 months after the date on which the underwriter purchases the debt obligation, or by the date of the first interest payment on the debt obligation, whichever is later, or

(B) The debt obligation, or any substantial portion of the issue of which the debt obligation is a part, is actually traded on one or more foreign securities exchanges or foreign established securities markets on or within 15 calendar days after the date on which the underwriter purchases the debt obligation.

For purposes of this subparagraph, a foreign established securities market includes any foreign over-the-counter market as reflected by the existence of an inter-dealer quotation system for regularly disseminating to brokers and dealers quotations of obligations by identified brokers or dealers, other than quotations prepared and distributed by a broker or dealer in the regular course of his business and containing only quotations of such broker or dealer.

(iii) The requirements of this subdivision are that, except as provided in subdivision (iv) of this subparagraph, the underwriter is under no written or implied restriction imposed by the issuer with respect to whom he may resell the debt obligation, and either—

(A) Within 30 calendar days after he purchased the debt obligation the underwriter or underwriters either (*1*) sold it, or (2) sold at least 95 percent of the face amount of the issue of which the debt obligation is a part, or

(B) (*1*) The debt obligation is evidenced by an instrument which, under the laws of the jurisdiction in which it is issued, is either negotiable or transferable by assignment (whether or not it is registered for trading), and (2) it appears from all the relevant facts and circumstances, including any written statements or assurances made by the purchasing underwriter or underwriters, that such debt obligation was purchased with a view to distribution through resale.

(iv) The requirements of subdivision (iii) of this subparagraph may be met whether or not the underwriter is restricted from reselling the debt obligation—

(A) To a United States person (as defined in section 7701(a)(30)) or

(B) To any particular person or persons, pursuant to a restriction imposed by, or required to be met in order to comply with, United States or foreign securities or other law.

(5) *Statement with return.* Any taxpayer who is required to file a tax return, and who excludes from gross income interest of the type specified in this paragraph must comply with the requirements of § 1.861–2(c).

(6) *Effect of termination of IET.* If the interest equalization tax expires, the provisions of section 861(a)(1)(G) and this paragraph shall apply to interest paid on debt obligations only with respect to which a section 4912(c) election was made.

(7) *Definition of term "underwriter."* For purposes of section 861(a)(1)(G) and this paragraph, the term "underwriter" shall mean any underwriter as defined in section 4919(c)(1).

[FR Doc.74–11937 Filed 5–22–74;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 166—STATE ADULT EDUCATION PROGRAMS

State Plans

Pursuant to the authority contained in the Adult Education Act (20 U.S.C. 1201–1211), the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare hereby amends the regulations in the State Adult Education Programs (45 CFR Part 166) to delete from § 166.11 the requirement that the States submit their annual State plan ninety days after the effective date of the revised regulations.

The requirement that the States submit a revised State plan within 90 days after the effective date of revised regulations proved to be unrealistic. Many States were late in submitting their revised plans for fiscal year 1974. All State plans have now been submitted. It is proposed, therefore, to delete the 90-day requirement. Since all State plans have now been submitted, no new date for submission of State plans for fiscal year 1974 is necessary.

As amended, paragraph (a) of § 166.11 shall read as follows:

§ 166.11 State plan-general.

(a) *Purpose.* The purpose of the State plan is to provide a framework within which the State will encourage the establishment or expansion of programs to carry out the purpose set forth in § 166.1, and to provide the basis on which Federal payments to the State under this part are made. State agencies desiring to participate under the Act shall submit to the Commissioner a State plan which shall meet the requirements of section 306(a) of the Act and the regulations in this subpart.

* * * * *

It is the general policy of the Department to afford interested parties an opportunity to comment on proposed rules. However, in view of the short time remaining in the fiscal year, it is determined that an opportunity for comment would be impracticable.

(5 U.S.C. 553(b))

(Catalog of Federal Domestic Assistance No. 13.400, Adult Education-Grants to States)

Effective date. This amendment to the regulation will be effective on June 24, 1974.

Dated: May 15, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

Approved: May 17, 1974.

FRANK CARLUCCI,
Acting Secretary of Health, Education, and Welfare.

[FR Doc.74–11922 Filed 5–22–74;8:45 am]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Miscellaneous Amendments

The need for a number of technical amendments has been identified. These amendments and corrections are set forth in this publication and are described in the table below.

The Agency finds that good cause exists for omitting as unnecessary a notice of proposed rulemaking, public rulemaking procedure, and postponement of effective date in the issuance of these amendments, in that (1) none of the changes in any way invalidate the test procedures currently used by the manufacturers as prescribed by regulation for the 1974 and 1975 model year and (2) the changes primarily remove requirements and restrictions which have been found to be unnecessary for assuring compliance with the standards. These amendments do not in any way require a manufacturer to make changes in the certification test procedures, but rather permit modifications in test procedures if a manufacturer elects to utilize the modifications hereby authorized. The only new requirement is that manufacturers who request EPA to use special exhaust gas sampling systems having very low pressure must substantiate the need for the closer tolerance.

Note that the following explanation of the changes made by these technical amendments are presented in a sequence that disregards the subpart affected, but rather in a sequence governed by the paragraph number after the hyphen (i.e., -5b, -13b, -14, etc.). This is done to avoid redundancy in these explanations, for the paragraph number in each case deals with the identical subject matter in each of the several major subparts of the regulation. In contrast, to comply with FEDERAL REGISTER requirements, the amendments themselves are presented separately for each subpart.

EXPLANATION OF TECHNICAL AMENDMENT CHANGES

Section	Change	Reason
1. § 85.275-5(b)(2)	Remove requirement that if any single displacement control system represents over 70 percent of projected family sales, two emission data vehicles must be selected; permits Administrator to make such a selection if total family sales are high.	Provision was discriminatory against manufacturers with an undiversified product line.
2. § 85.075-13(b)-(1), § 85.074-13(b)(1), § 85.275-13(b)(1).	Remove required recording of fuel temperature data during the running loss test.	Procedure has been determined to be unnecessary.
3. § 85.075-13(d), § 85.074-13(d), § 85.275-13(d).	Add optional procedure increasing the allowable temperature range of the fuel prior to delivery to the fuel tank and placing the instruction for recording the fuel and ambient temperature after the instruction for draining and recharging the fuel tank.	Allow movement of the vehicle between fueling and the start of the diurnal soak since some laboratories cannot conduct the diurnal soak at the vehicle fueling site due to safety considerations.
4. § 85.075-14(b), § 85.074-14(b), § 85.175-12(b), § 85.275-14(b).	Increase speed tolerance on dynamometer driving schedule during vehicle preconditioning.	Less stringent speed tolerance during preconditioning will have no effect on exhaust emission results and will allow the use of semiskilled or trainee drivers.
5. § 85.075-15-(a), § 85.175-13-(a), § 85.275-15(a).	Specify that all accessories must be turned off for engine startup during the cold start test.	Wording should have been carried forward from § 85.074-15(a) but was not.
6. § 85.075-15(j), § 85.074-15(j), § 85.175-13(j), § 85.275-15(j).	Remove time restriction for setting dynamometers using automatic control of preselectable power settings.	Restriction has been determined to be unnecessary.
7. § 85.075-20(a), § 85.175-18(a), § 85.275-20(a).	Add provision that exact conformance with schematics is not mandatory.	Recognize that other configurations of the required components can produce accurate results.
8. § 85.075-20(b)(1), § 85.074-20(b)(1), § 85.175-18(b)(1), § 85.275-20(b)(1),	Remove specification for mixing point pressure.	Specification for control of vehicle tailpipe pressure in § 85.075-20(b)(2) provides adequate control over mixing point pressure.

EXPLANATION OF TECHNICAL AMENDMENT CHANGES—Continued

Section	Change	Reason
9. § 85.075-20(b)(2), § 85.074-20(b)(2), § 85.175-18(b)(2), § 85.275-20(b)(2).	Require manufacturers to substantiate the need for a closer tolerance.	Time and cost of special test procedure should be justified.
10. Figure A75-2, Figure B175-2, Figure C75-2.	Conditioning columns shown as optional; use of multirange analysis and paralleled separation of analysis streams has been depicted.	Low interference CO instrumentation does not require conditioning columns.
11. § 85.075-20(c), § 85.175-18(c), § 85.275-20(c).	Define components used in revised Figure A75-2; specify criteria for use of conditioning column.	Revision of Figure A75-2.
12. Figure B175-3	Make component descriptions correspond with revised Figure B175-2.	Revision of Figure B175-2.
13. § 85.075-21(b)(2)(iii), § 85.275-21(b)(2)(iii).	Add provision allowing use of suitable collection tubing material, other than stainless steel or aluminum, if approved by the Administrator.	Recognize that other materials may be functionally equivalent.
14. § 85.075-22(g), § 85.074-22(g), § 85.175-19(g), § 85.275-22(g).	Remove requirement for recording dynamometer information.	Information recorded elsewhere.
15. § 85.075-22(j), § 85.074-22(j), § 85.175-19(j), § 85.275-22(j).	Specify criteria for use of a central laboratory barometer.	Clarify that measurement does not require an individual barometer in every cell.
16. § 85.075-22(n), § 85.175-19(m), § 85.275-22(n).	Remove requirement when conditioning columns are not used; specify that if dilution air is taken from test cell, ambient humidity can be used for measurement.	Measurement only necessary when conditioning columns are used; clarify measurement procedure.
17. § 85.075-23(a)(2)	Correct language in paragraph	Error in 10/31/73 publication of technical amendments.
18. § 85.175-20(a)(2)	Add provision for substitution of zero grade air for zero grade nitrogen; increase allowed impurity for carbon dioxide.	Recognize that zero grade air is a satisfactory substitute for zero grade nitrogen.
19. § 85.075-23(a)(6), § 85.074-23(a)(6), § 85.175-20(a)(6), § 85.275-23(a)(6).	Add optional schematic depicting V3 in different locations.	Previous placement of V3 represented a potential danger of overpressurizing the ozonator.
20. § 85.075-23(a)(6)(viii), § 85.074-23(a)(6)(viii), § 85.175-20(a)(6)(viii), § 85.275-23(a)(6)(viii).	Add alternative procedure so that in (a)(6)(vii) using most technically correct equation and elaborating on areas of ambiguity in calibration procedure.	Allow use of most technically correct calculation; clarify procedure.
21. § 85.075-23(a)(7), § 85.175-20(a)(7), § 85.275-23(a)(7).	Specify criteria which are consistent with § 85.075-20(c)(11).	Clarify the test procedure.
22. § 85.175-21(b)(15-21).	Specify that both disconnecting the CVS from the tailpipe and turning off the CVS pump is not necessary.	Taking both actions is not necessary; running pump during soak may improve CVS stability.
23. § 85.175-23(c)	Specify calculations for case when conditioning column is not used.	Make consistent with criteria specified in § 85.175-18(c)(11) and § 85.175-19(m).
24. § 85.075-26(c), § 85.275-26(c).	Specify calculations for case when conditioning column is not used.	Make consistent with criteria specified in § 85.075-20(c)(11) and § 85.075-22(n).
25. § 85.075-30(b)(1)(ii), § 85.275-30(b)(1)(ii).	Delete repetitious wording	Error in previous publication.
26. § 85.774-5(c)(2)	Delete provision requiring two durability engines when a particular system is used in only one engine family.	Provision is discriminatory against manufacturers with an undiversified product line.
27. § 85.874-5(b)(2)	Reduce the number of engines selected at highest fuel feed per stroke at speed of maximum rated torque from two to one.	Provision is unnecessary since the second engine is normally identical to the first engine.
28. § 85.874-5(b)(3)	Add provision which permits the Administrator to select an emission data engine on a basis other than fuel rate at maximum rated torque.	Allow the Administrator to select an emission data engine on the basis of features which indicate a potential for high emission levels rather than the identical engine as specified in November 15, 1972 CFR § 85.874-5(b)(2).
29. § 85.874-5(c)(1)	Remove mandatory requirement that durability engines must always be selected as currently outlined in the subparagraph.	Minor changes in product line would require testing of a durability engine under current regulations. EPA has found additional durability testing unnecessary.

EXPLANATION OF TECHNICAL AMENDMENT CHANGES—Continued

Section	Change	Reason
30. § 85.874-30(b)(1)(i), § 85.974-30(b)(1)(i).	Correct reference and language in paragraph.	Error in November 15, 1972 recompilation.
31. § 85.874-30(b)(1)(ii), § 85.974-30(b)(1)(ii).	Add language to define the engine model affected in the event the test engine failed to comply with the emission standards.	Result of additional selection criteria in § 85.874-5(b)(3).
32. Appendix V	Delete Appendix V and the associated schematic.	Information has become common knowledge in the industry; a variety of configurations have been shown to produce equivalent results; therefore, a specific drawing is no longer needed.

Part 85 of Chapter I, of Title 40 of the Code of Federal Regulations as applicable beginning with the 1974 model year is amended as follows, effective on May 23, 1974.

(Secs. 202, 206, 301(a), Clean Air Act, as amended (42 U.S.C. 1857f-1, 1857f-5, and 1857g(a)))

Dated: May 13, 1974.

JOHN QUARLES,
Acting Administrator.

1. In § 85.074–13, a sentence is added after "conditions prescribed", paragraph (b)(1) is revised, and paragraph (d) is added. As amended, the section reads as follows:

§ 85.074–13 Evaporative emission collection procedure.

* * *. An alternative procedure to that described in paragraph (a) is presented in paragraph (d).

* * * * *

(b) *Running loss test.* (1) The vehicle shall be placed on the dynamometer.

* * * * *

(d) *Alternative to paragraph (a): Diurnal breathing loss test.* (1) The test vehicle shall be allowed to "soak" in an area where the ambient temperature is maintained between 60° F. and 86° F. for a period of not less than 10 hours. (The vehicle preparation requirements of § 85.074–11 may be performed during this period.) It shall then be transferred to a soak area where the ambient temperature is maintained between 76° F. and 86° F.

(2) The fuel tank of the prepared test vehicle, preconditioned according to § 85.074–12, shall be drained and recharged with the specified test fuel, § 85.074–10(a), to the prescribed "tank fuel volume," defined in § 85.002. The temperature of the fuel prior to delivery to the fuel tank shall be between 50° and 60° F. Care should be exercised against abnormal loading of the evaporative emission control system or device as a result of fueling the tank.

(3) Connect the prescribed fuel tank thermocouple to the recorder and record the fuel and ambient temperatures at a chart speed of approximately 12 inches per hour (or equivalent record). Plug the exhaust pipe(s) and inlet pipe to the air cleaner and when the fuel temperature reaches 60°±2° F. install the prescribed vapor collection systems on all fuel system external vents. Multiple vents may be connected to a single collection trap provided that, where there is more than one external vent on a fuel system distinguishing between carburetor and tank vapors, separate collection systems shall be employed to trap the vapors from the separate sources. Every precaution shall be taken to minimize the lengths of the collection tubing employed and to avoid sharp bends across the entire system.

(4) Artificial means shall be employed to heat the fuel in the tank to 84° F.±2° F. The prescribed temperature of the fuel shall be achieved over a period of 60 minutes ±10 minutes at a constant rate of change of temperature with respect to time. After a minimum of 1 hour, following admittance to the 76° F.–86° F. soak area, the vehicle shall be moved onto the dynamometer stand for the subsequent part of the test. The fuel tank thermocouple may be temporarily disconnected to permit moving the test vehicle. Plugs shall be removed from the exhaust pipe(s) and inlet pipe to the air cleaner.

2. In § 85.074–14, paragraph (b) is revised. As amended, the section reads as follows:

§ 85.074–14 Dynamometer driving schedule.

* * * * *

(b) The speed tolerance at any given time on the dynamometer driving schedule prescribed in Appendix I or as printed on a driver's aid chart approved by the Administrator, when conducted to meet the requirements of § 85.074–15, is defined by upper and lower limits. The upper limit is 2 m.p.h. higher than the highest point on the trace within 1 second of the given time. The lower limit is 2 m.p.h. lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as occur when shifting manual transmission vehicles) are acceptable provided they occur for less than 2 seconds on any one occasion. Speeds lower than those prescribed are acceptable provided the vehicle is operated at maximum available power during such occurrences. Further, speed deviations from those prescribed due to stalling are acceptable provided the provisions of § 85.074–19(f) are adhered to. When conducted to meet the requirements of § 85.074–12, the speed tolerance shall be as specified above, except that the upper and lower limits shall be 4 m.p.h.

* * * * *

3. In § 85.074–15, paragraph (j) is revised and reads as follows:

§ 85.074–15 Dynamometer procedure.

* * * * *

(j) If the dynamometer horsepower must be adjusted manually, it shall be set within 1 hour prior to the exhaust emissions test phase. The test vehicle shall not be used to make this adjustment. Dynamometers using automatic control of preselectable power settings may be set anytime prior to the beginning of the emissions test.

* * * * *

4. In § 85.074–20, paragraphs (b)(1) and (b)(2) are revised. As amended, the section reads as follows:

§ 85.074–20 Sampling and analytical system (exhaust emissions).

* * * * *

(b) * * *

(1) A dilution air filter assembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon level; and a second particulate filter to remove charcoal particles from the air stream.

(2) A leak-tight connector and tube to the vehicle tailpipe. The tubing shall be sized and connected in such a manner that the static pressure variations in the vehicle tailpipe(s) remain within ±5 inches of water of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). Sampling systems capable of tolerances to ±1 inch of water will be used by the Administrator if a written request by the manufacturer substantiates the need for this closer tolerance.

* * * * *

5. In § 85.074–22, paragraphs (g) and (j) are revised. As amended, the section reads as follows:

§ 85.074–22 Information to be recorded.

* * * * *

(g) Indicated road load power absorption at 50 m.p.h. and dynamometer serial number. As an alternative to recording the dynamometer serial number, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator: *Provided,* The test cell records show the pertinent information.

* * * * *

(j) Test cell barometric pressure, ambient temperature, and humidity.

NOTE: A central laboratory barometer may be used: *Provided,* That individual test cell barometric pressures are shown to be within ±0.1% of the barometric pressure at the central barometer location.

* * * * *

6. In § 85.074–23, paragraph (a)(6) is revised and Figure A74–8 is added. As amended, the section reads as follows.

§ 85.074–23 Analytical system calibration and sample handling.

(a) * * *

(6) NO_x Converter Efficiency Determination: The apparatus described and

illustrated in Figure A74–7 or Figure A74–8 is to be used to determine the conversion efficiency of devices that convert NO_x to NO.

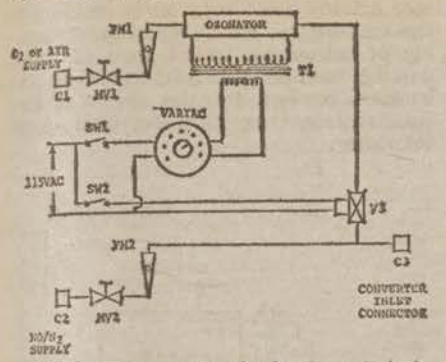


FIGURE A74–7.—NO_x Converter Efficiency Detector

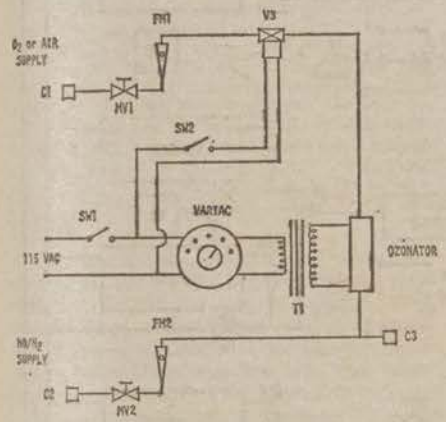


FIGURE A74–8 – NO_x CONVERTER EFFICIENCY DETECTOR

The following procedure is to be used for determining the values to be used in Equation (A).

(i) Attach the NO/N_2 supply (150–250 p.p.m.) at C2, the O_2 supply at C1 and the analyzer inlet connection to the efficiency detector at C3. If lower concentrations of NO are used, air may be used in place of O_2 to facilitate better control of the NO_2 generated during step (iv).

(ii) With the efficiency detector variac off, place the NO_x converter in bypass mode and close valve V3. Open valve MV2 until sufficient flow and stable readings are obtained at the analyzer. Zero and span the analyzer output to indicate the value of the NO concentration being used. Record this concentration.

(iii) Open valve V3 (on/off flow control solenoid valve for O_2) and adjust valve MV1 (O_2 supply metering valve) to blend enough O_2 to lower the NO concentration (ii) about 10 percent. Record this concentration.

(iv) Turn on the ozonator and increase its supply voltage until the NO concentration of (iii) is reduced to about 20 percent om (ii). NO_2 is now being formed from the $NO+O_2$ reaction. There must always be at least 10 percent unreacted NO at this point. Record this concentration.

(v) When a stable reading has been obtained from (iv), place the NO_x converter in the convert mode. The analyzer will now indicate the total NO_x concentration. Record this concentration.

(vi) Turn off the ozonator and allow the analyzer reading to stabilize. The mixture $NO+O_2$ is still passing through the converter. This reading is the total NO_x concentration of the dilute NO span gas used at step (iii). Record this concentration.

(vii) Close valve V3. The NO concentration should be equal to or greater than the reading of (ii) indicating whether the NO contains any NO_2.

Calculate the efficiency of the NO_x converter by substituting the concentrations obtained during the test into Equation (A).

$$\% \text{ Eff.} = \frac{(v)-(iv)}{(vi)-(iv)} \times 100 \text{ percent} \qquad (A)$$

The efficiency of the converter should be greater than 90 percent. Adjusting the converter temperature may be needed to maximize the efficiency. Efficiency checks should be made on each analyzer range using an NO span gas concentration appropriate to the instrument range. See alternate procedure in pargraph (a)(6)(viii).

(viii) Alternative to paragraph (a)(6)(vii): Close valve V3. The NO concentration should be equal to or greater than the reading of (ii) indicating whether the NO contains any NO_2. Calculate the efficiency of the NO_x converter by substituting the concentrations obtained during the test into Equation (A).

$$(A) \qquad \% \text{ Eff.} = \left[1 + \frac{(v\text{-}vi)}{(iii\text{-}iv)}\right] \times 100\%$$

The efficiency of the converter should be greater than 90 percent. Adjusting the converter temperature may be needed to maximize the efficiency. Although steps (ii) and (viii) are not used in the calculations, their values should be recorded to complete the data set for the test sequence. This procedure does not depend on the amount of NO_2 in the span gas nor the equivalence of flows in the bypass and converter modes; however, to be consistent with good operating practice, flows should be nominally the same, and the NO_2 concentration should be less than 5% of the NO_x span concentration. Efficiency checks should be made at a frequency (daily to weekly) consistent with good quality assurance provisions.

* * * * *

7. In § 85.075–13, a sentence is added after conditions prescribed", paragraph (b)(1) is revised, and paragraph (d) is added. As amended, the section reads as follows:

§ 85.075–13 Evaporative emission collection procedure.

* * *. An alternative procedure to that described in paragraph (a) is presented in paragraph (d).

* * * * *

(b) *Running loss test.* (1) The vehicle shall be placed on the dynamometer.

* * * * *

(d) *Alternate to paragraph (a): Diurnal breathing loss test.* (1) The test vehicle shall be allowed to "soak" in an area where the ambient temperature is maintained between 60° F. and 86° F. for a period of not less than 10 hours. (The vehicle preparation requirements of § 85.075–11 may be performed during this period.) It shall then be transferred to a soak area where the ambient temperature is maintained between 76° F. and 86° F.

(2) The fuel tank of the prepared test vehicle, preconditioned according to § 85.075–12, shall be drained and recharged with the specified test fuel, § 85.075–10(a), to the prescribed "tank fuel volume," defined in § 85.002. The temperature of the fuel prior to delivery to the fuel tank shall be between 50° and 60° F. Care should be exercised against abnormal loading of the evaporative emission control system or device as a result of fueling the tank.

(3) Connect the prescribed fuel tank thermocouple to the recorder and record the fuel and ambient temperatures at a chart speed of approximately 12 inches per hour (or equivalent record). Plug the exhaust pipe(s) and inlet pipe to the air cleaner and when the fuel temperature reaches 60°±2°F install the prescribed vapor collection systems on all fuel system external vents. Multiple vents may be connected to a single collection trap provided that, where there is more than one external vent on a fuel system distinguishing between carburetor and tank vapors, separate collection systems shall be employed to trap the vapors from the separate sources. Every precaution shall be taken to minimize the lengths of the collection tubing employed and to avoid sharp bends across the entire system.

(4) Artificial means shall be employed to head the fuel in the tank to 84°F.±2° F. The prescribed temperature of the fuel shall be achieved over a period of 60 minutes ±10 minutes at a constant rate of change of temperature with respect to time. After a minimum of 1 hour, following admittance to the 76° F.–86° F. soak area, the vehicle shall be moved onto the dynamometer stand for the subsequent part of the test. The fuel tank thermocouple may be temporarily disconnected to permit moving the test vehicle. Plugs shall be removed from the exhaust pipe(s) and inlet pipe to the air cleaner.

8. In § 85.075–14, paragraph (b) is revised. As amended, the section reads as follows:

§ 85.075–14 Dynamometer driving schedule.

* * * * *

(b) The speed tolerance at any given time on the dynamometer driving schedule prescribed in Appendix I or as printed on a driver's aid chart approved by the Administrator, when conducted to meet the requirements of § 85.075–15, is defined by upper and lower limits. The upper limit is 2 m.p.h. higher than the highest point on the trace within 1 second of the given time. The lower limit is 2 m.p.h. lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the

tolerances (such as occur when shifting manual transmission vehicles) are acceptable provided they occur for less than 2 seconds on any one occasion. Speeds lower than those prescribed are acceptable provided the vehicle is operated at maximum available power during such occurrences. Further, speed deviations from those prescribed due to stalling are acceptable provided the provisions of § 85.075–19(f) are adhered to. When conducted to meet the requirements of § 85.075–12, the speed tolerance shall be as specified above, except that the upper and lower limits shall be 4 m.p.h.

* * * * *

9. In § 85.075–15, paragraph (a) is corrected and paragraph (j) is revised. As amended, the section reads as follows:

§ 85.075–15 Dynamometer procedure.

* * * * *

(a) The dynamometer run consists of two tests, a "cold" start test after a minimum 12-hour soak according to the provisions of §§ 85.075–12 and 85.075–13 and a "hot" start test with a 10-minute soak between the two tests. Engine startup (with all accessories turned off), operation over the driving schedule, and engine shutdown make a complete cold start test. Engine startup and operation over the first 505 seconds of the driving schedule complete the hot start test. The exhaust emissions are diluted with air to a constant volume and a portion is sampled continuously during each test. The composite samples collected in bags are analyzed for hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen. A parallel sample of the dilution air is similarly analyzed for hydrocarbon, carbon monoxide, and oxides of nitrogen.

* * * * *

(j) If the dynamometer horsepower must be adjusted manually, it shall be set within 1 hour prior to the exhaust emissions test phase. The test vehicle shall not be used to make this adjustment. Dynamometers using automatic control of preselectable power settings may be set anytime prior to the beginning of the emissions test.

10. In § 85.075–20, paragraphs (a), (b)(1), (b)(2), and (c), and Figure A75–2 are revised. As amended, the section reads as follows:

§ 85.075–20 Sampling and analytical system (exhaust emissions).

(a) *Schematic drawings.* The following figures (Figs. A75–1 and A75–2) are schematic drawings of the exhaust gas sampling and analytical systems which will be used for testing under the regulations in this part. Since various configurations of the required components can produce accurate results, these schematic drawings are not to be interpreted literally and exact conformance is not mandatory. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

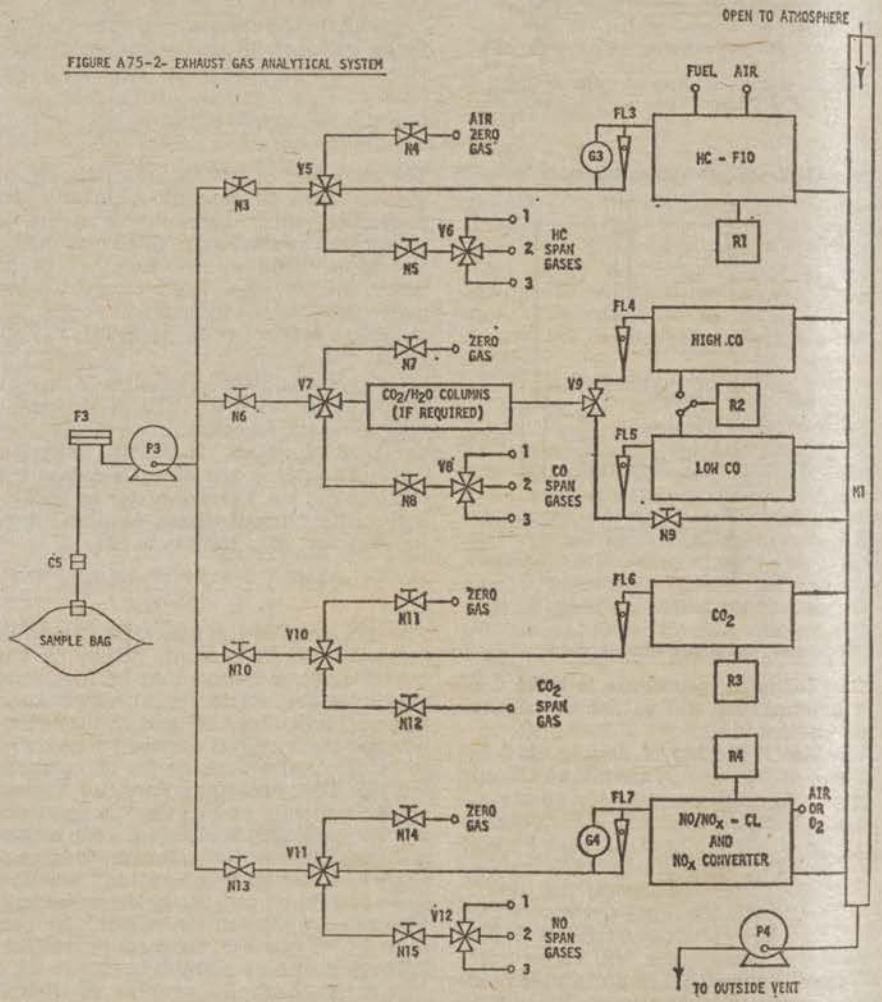
(b) * * *

(1) A dilution air filter assembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon level; and a second particulate filter to remove charcoal particles from the air stream.

(2) A leak-tight connector and tube to the vehicle tailpipe. The tubing shall be sized and connected in such a manner that the static pressure variations in the vehicle tailpipe(s) remain within ±5 inches of water of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). Sampling systems capable of tolerances to ±1 inch of water will be used by the Administrator if a written request by the manufacturer substantiates the need for this closer tolerance.

* * * * *

FIGURE A75-2- EXHAUST GAS ANALYTICAL SYSTEM



(c) *Component description (exhaust gas analytical system).* The following components will be used in the exhaust gas analytical system for testing under the regulations in this part. The analytical system provides for the determination of hydrocarbon concentrations by flame ionization detector (FID) analysis, the determination of carbon monoxide and carbon dioxide concentrations by nondispersive infrared (NDIR) analysis and the determination of oxides of nitrogen concentrations by chemiluminescence (CL) analysis in dilute exhaust samples. The chemiluminescence method of analysis requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. See Appendix V. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. See Figure A75–2.

(1) Quick-connect leak-tight fitting (C5) to attach sample bags to analytical system.

(2) Filter (F3) to remove any residual particulate matter from the collected sample.

(3) Pump (P3) to transfer samples from the sample bags to the analyzers.

(4) Selector valves (V5, V6, V7, V8, V9, V10, V11, and V12) for directing samples, span gases or zeroing gases to the analyzers.

(5) Flow control valves (N3, N4, N5, N6, N7, N8, N9, N10, N11, N12, N13, N14, and N15) to regulate the gas flow rates.

(6) Flowmeters (FL3, FL4, FL5, FL6, and FL7) to indicate gas flow rates.

(7) Pressure gauges (G3 and G4) to facilitate greater precision in setting and reading flowrates.

(8) Manifold (M1) to collect the expelled gases from the analyzers.

(9) Pump (P4) to transfer expelled gases from the collection manifold to a vent external to the test room (optional).

(10) Analyzers to determine hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen concentrations See § 85.075–23(a).

(11) Sample conditioning column containing $CaSO_4$ or indicating silica gel to remove water vapor and containing ascarite to remove carbon dioxide from the CO analysis stream.

NOTE: If CO instruments which are essentially free of CO_2 and water vapor interference are used, the use of the conditioning column may be deleted. See §§ 85.075–22(n), and 85.075–26(c). A CO instrument will be considered to be essentially free of CO_2 and water vapor interference of its response to a mixture of 3 percent CO_2 in N_2, which has been bubbled through water at room temperature (68°—86°F.), produces an equivalent CO response, as measured on the most sensitive CO range, which is less than 1 percent of full scale CO concentration on instrument ranges above 300 ppm CO or less than 3 ppm on instrument ranges below 300 ppm CO.

(12) Recorders (R1, R2, R3, and R4) or digital printers to provide permanent records of calibration, spanning and sample measurements; or in those facilities where computerized data acquisition systems are incorporated, the computer facility printout may be used.

11. In § 85.075–21, paragraph (b)(2)(iii) is revised. As amended, the section reads as follows:

§ 85.075–21 Sampling and analytical system (fuel evaporative emissions).

* * * * *

(b) * * *

(2) * * *

(iii) Collection tubing—stainless steel, aluminum, or other suitable material approved by the Administrator, 5/16 inch ID, for connecting the collection traps to the fuel system vents.

* * * * *

12. In § 85.075–22, paragraphs (g), (j), and (n) are revised. As amended, the section reads as follows:

§ 85.075–22 Information to be recorded.

* * * * *

(g) Indicated road load power absorption at 50 m.p.h. and dynamometer serial number. As an alternative to recording the dynamometer serial number, a reference to a vheicle test cell number may be used, with the advance approval of the Administrator: *Provided*, The test cell records show the pertinent information.

* * * * *

(j) Test cell barometric pressure, ambient temperature, and humidity.

NOTE: A central laboratory barometer may be used: *Provided*, That individual test cell barometric pressures are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

* * * * *

(n) The humidity of the dilution air.

NOTE: If conditioning columns are not used (see § 85.075–20(c)(11)), this measurement can be deleted. If the conditioning columns are used and the dilution air is taken from the test cell, the ambient humidity can be used for this measurement.

13. In § 85.075–23, paragraph (a) is revised and Figure A75–8 is added. As amended, the section reads as follows.

§ 85.075–23 Analytical system calibration and sample handling.

(a) Calibrate the analytical assembly at least once every 30 days. Use the same flow rate as when analyzing samples.

(1) Adjust analyzers to optimize performance.

(2) Zero the hydrocarbon analyzer with zero grade air and the carbon monoxide, carbon dioxide, and oxides of nitrogen analyzers with zero grade air or zero grade nitrogen. The allowable zero gas impurity concentrations should not exceed 1 p.p.m. equivalent carbon response, 1 p.p.m. carbon monoxide, 400 p.p.m. (0.04 mole percent) carbon dioxide, and 0.1 p.p.m. nitric oxide.

(3) Set the CO and CO_2 analyzer gains to give the desired range. Select the desired attenuation scale of the HC analyzer, set the capillary flow rate by adjusting the back pressure regulator, and adjust the electronic gain control, if provided, to give the desired range. Select the desired scale of the NO_x analyzer and adjust the phototube high voltage supply or amplifier gain to give the desired range.

(4) Calibrate the HC analyzer with propane (air diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. Calibrate the CO analyzer with carbon monoxide (nitrogen diluent) gases and the CO_2 analyzer with carbon dioxide (nitrogen diluent) gases having nominal concentrations equal to 10, 25, 40, 50, 60, 70, 85, and 100 percent of full scale. Calibrate the NO_x analyzer with nitric oxide (nitrogen diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. The actual concentrations should be known to with ±2 percent of the true values.

(5) Compare values obtained on the CO and CO_2 analyzers with previous calibration curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curves for data reduction.

(6) NO_x converter efficiency determination: The apparatus described and illustrated in Figure A 75–7 or Figure A 75–8 is to be used to determine the conversion efficiency of devices that convert NO_x to NO. The following procedure is to be used for determining the values to be used in Equation (A).

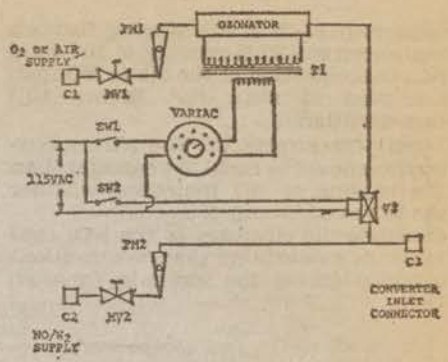


FIGURE A 75–7—NO_x Converter Efficiency Detector.

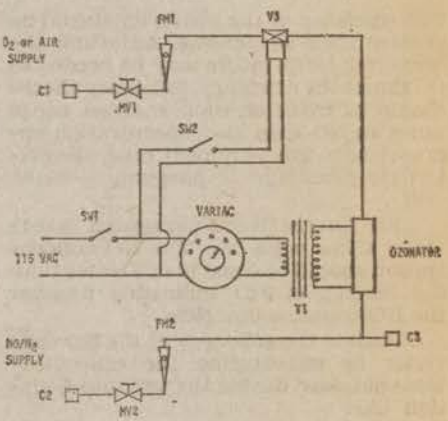


FIGURE A75-8 – NO_x CONVERTER EFFICIENCY DETECTOR

(i) Attach the NO/N_2 supply (150–250 ppm) at C2, the O_2 supply at C1 and the analyzer inlet connection to the efficiency detector at C3. If lower concentrations of NO are used, air may be used in place of O_2 to facilitate better control of the NO_2 generated during step (iv).

(ii) With the efficiency detector variac off, place the NO_x converter in bypass mode and close valve V3. Open valve MV2 until sufficient flow and stable readings are obtained at the analyzer. Zero and span the analyzer output to indicate the value of the NO concentration being used. Record this concentration.

(iii) Open valve V3 (on/off flow control solenoid valve for O_2) and adjust valve MV1 (O_2 supply metering valve) to blend enough O_2 to lower the NO concentration (ii) about 10 percent. Record this concentration.

(iv) Turn on the ozonator and increase its supply voltage until the NO concentration of (iii) is reduced to about 20 percent of (ii). NO_2 is now being formed from the NO+O_2 reaction. There must always be at least 10 percent unreacted NO at this point. Record this concentration.

(v) When a stable reading has been obtained from (iv), place the NO_x converter in the convert mode. The analyzer will not indicate the total NO_x concentration. Record this concentration.

(vi) Turn off the ozonator and allow the analyzer reading to stabilize. The

mixture $NO+O_2$ is still passing through the converter. This reading is the total NO_x concentration of the dilute NO span gas used at step (iii). Record this concentration.

(vii) Close valve V3. The NO concentration should be equal to or greater than the reading of (ii) indicating whether the NO contains any NO_2.

Calculate the efficiency of the NO_x converter by substituting the concentrations obtained during the test into Equation (A).

$$\% \text{ Eff.} = \frac{(v)-(iv)}{(vi)-(iv)} \times 100 \text{ percent} \quad \text{(A)}$$

The efficiency of the converter should be greater than 90 percent. Adjusting the converter temperature may be needed to maximize the efficiency. Efficiency checks should be made on each analyzer range using an NO span gas concentration appropriate to the intrument range. See alternate procedure in paragraph (a)(6)(viii).

(viii) Alternative to paragraph (a)(6)(vii): Close valve V3. The NO concentration should be equal to or greater than the reading of (ii) indicating whether the NO contains any NO_2.

Calculate the efficiency of the NO converter by substituting the concentrations obtained during the test into Equation (A).

$$\text{(A)} \quad \%\text{Eff.} = \left[1+\frac{(v-vi)}{(iii-iv)}\right] \times 100\%$$

The efficiency of the converter should be greater than 90 percent. Adjusting the converter temperature may be needed to maximize the efficiency. Although steps (ii) and (vii) are not used in the calculations, their values should be recorded to complete the data set for the test sequence. This procedure does not depend on the amount of NO_2 in the span gas nor the equivalence of flows in the bypass and converter modes; however, to be consistent with good operating practice, flows should be nominally the same, and the NO_2 concentration should be less than 5% of the NO_x span concentration. Efficiency checks should be made at a frequency (daily to weekly) consistent with good quality assurance provisions.

(7) Check the efficiency of the sample conditioning system, if used, by the following procedure:

(i) Zero and span the CO instrument on its most sensitive scale.

(ii) Recheck zero.

(iii) Bubble a mixture of 3% CO_2 in N_2 through water at room temperature (68°–86°F.), through the conditioning column into the CO instrument. If the response meets the criteria of § 85.075–20(c)(11), then the conditioning column is functioning acceptably. If the response is higher than the specified limit, a new conditioning column should be installed and the test repeated.

(iv) Sample conditioning systems should be checked at a frequency consistent with observed column life or when the indicator of the column packing begins to show deterioration.

* * * * *

14. In § 85.075–26, paragraph (c) is revised. As amended, the section reads as follows:

§ 85.075–26 Calculations (exhaust emissions).

* * * * *

(c) Meaning of symbols:

HC_{mass} = Hydrocarbon emissions, in grams per test phase.

$Density_{HC}$ = Density of hydrocarbons in the exhaust gas, assuming an average carbon to hydrogen ratio of 1:1.85, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (16.33 gm./cu. ft.).

HC_{conc} = Hydrocarbon concentration of the dilute exhaust sample corrected for background, in p.p.m. carbon equivalent, i.e. equivalent propane×3.

$HC_{conc} = HC_e - HC_d(1-1/DF)$

where:

HC_e = Hydrocarbon concentrations of the dilute exhaust sample as measured, in p.p.m. carbon equivalent.

HC_d = Hydrocarbon concentration of the dilution air as measured in p.p.m. carbon equivalent.

$NO_{x_{mass}}$ = Oxides of nitrogen emissions, in grams per test phase.

$Density_{NO_2}$ = Density of oxides of nitrogen in the exhaust gas, assuming they are in the form of nitrogen dioxide, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (54.16 gm./cu. ft.).

$NO_{x_{conc}}$ = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in p.p.m.

$NO_{x_{conc}} = NO_{xe} - NO_{xe_d}(1-1/DF)$

where:

NO_{x_e} = Oxides of nitrogen concentration of the dilute exhaust sample as measured, in p.p.m.

NO_{x_d} = Oxides of nitrogen concentration of the dilution air as measured, in p.p.m.

CO_{mass} = Carbon monoxide emissions, in grams per test phase.

$Density_{CO}$ = Density of carbon monoxide in grams per cubic foot at 68° F. and 760 mm. Hg pressure (32.97 gm./cu. ft.).

CO_{conc} = Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor and CO_2 extraction, in p.p.m.

$CO_{conc} = CO_e - CO_d(1-1/DF)$

where:

CO_e = Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in p.p.m. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$CO_e = (1-0.01925CO_{f_e}-0.000323R)CO_{e_m}$

where:

CO_{e_m} = Carbon monoxide concentration of the dilute exhaust sample as measured in p.p.m.

CO_{f_e} = Carbon dioxide concentration of the dilute exhaust sample, in mole percent.

R = Relative humidity of the dilution air, in percent. (see § 85.075–22(n))

CO_d = Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in p.p.m.

$CO_d = (1-0.000323R)CO_{d_m}$

where:

CO_{d_m} = Carbon monoxide concentration of the dilution air sample as measured, in p.p.m.

NOTE.—If a CO instrument which meets the criteria specified in § 85.075–20(c)(11) is used and the conditioning column has been deleted, CO_{e_m} can be substituted directly for CO_e and CO_{d_m} can be substituted directly for CO_d.

$$DF = \frac{13.4}{CO_{f_e}+(HC_e+CO_e)\times 10^{-4}}$$

V_{mix} = Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528°R and 760 mm. Hg).

$$V_{mix} = V_o N \frac{(P_B-P_A)\ (528°\ R)}{(760 \text{ mm. } Hg)\ (T_p)}$$

where:

V_o = Volume of gas pumped by the positive displacement pump, in cubic feet per revolution. This volume is dependent on the pressure differential across the positive displacement pump. (See calibration techniques in Appendix III)

N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

P_B = Barometric pressure in mm. Hg.

P_A = Pressure depression below atmosphere measured at the inlet to the positive displacement pump.

T_p = Average temperature of dilute exhaust entering positive displacement pump during test while samples are being collected, in degrees Rankine.

K_H = Humidity correction factor.

$$K_H = \frac{1}{1-0.0047\ (H-75)}$$

where:

H = Absolute humidity in grains of water per pound of dry air.

$$H = \frac{(43.478)\ R_a \times P_d}{P_B-(P_d \times R_a/100)}$$

R_a = Relative humidity of the ambient air, in percent.

P_d = Saturated vapor pressure, in mm. Hg at the ambient dry bulb temperature.

* * * * *

15. In § 85.075–30, paragraph (b)(1)(ii) is corrected by deleting the words "the same" which follow the words "represent all vehicles".

16. In § 85.175–12, paragraph (b) is revised. As amended, the section reads as follows:

§ 85.175–12 Dynamometer driving schedule.

* * * * *

(b) The speed tolerance at any given time on the dynamometer driving schedule prescribed in Appendix I to this part or as printed on a driver's aid chart approved by the Administrator when conducted to meet the requirements of 85.175–13, is defined by upper and lower limits. The upper limit is 2 m.p.h. higher than the highest point on the trace within 1 second of the given time. The lower limit is 2 m.p.h. lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as occur when shifting manual transmission vehicles) are acceptable provided they occur for less than 2 seconds on any one occasion. Speeds lower than those prescribed are acceptable provided the vehicles is operated at maximum available power during such occurrences. Further, speed deviations from those prescribed due to stalling are acceptable: *Provided*, The provisions of § 85.175–17(d) are adhered to. When conducted to meet the requirements of § 85.175–11, the speed tolerance shall be as specified above, except that the upper and lower limits shall be 4 m.p.h.

17. In § 85.175–13, paragraph (a) is corrected and paragraph (j) is revised. As amended, the section reads as follows:

§ 85.175–13 Dynamometer procedure.

(a) The dynamometer run consists of two tests, a "cold" start test after a minimum 12 hour soak and a "hot" start test with a 10 minute soak between the two tests. Engine startup (with all accessories turned off), operation over the driving schedule, and engine shut-down make a complete cold start test. Engine startup and operation over the first 505 seconds of the driving schedule complete the hot start test. The exhaust emissions are diluted with air to a constant volume and a portion is sampled continuously during each test. Diesel hydrocarbons are analyzed continuously, with manual or electronic integration, during each test. The composite (flow integrated) samples collected in bags are analyzed for carbon

monoxide, carbon dioxide, and oxides of nitrogen. A parallel sample of dilution air is analyzed for hydrocarbon, carbon monoxide and oxides of nitrogen.

* * * * *

(j) If the dynamometer horsepower must be adjusted manually, it shall be set within 1 hour prior to the exhaust emissions test phase. The test vehicle shall not be used to make this adjustment. Dynamometers using automatic control of preselectable power settings may be set anytime prior to the beginning of the emissions test.

18. In § 85.175–18, paragraphs (a), (b)(1), (b)(2), (c), and (d), and Figures B 175–2 and B 175–3, are revised. As amended, the section reads as follows:

§ 85.175–18 Sampling and analytical systems (exhaust emissions).

(a) *Schematic drawings.* The following figures (Fig. B 175–1, B 175–2, and B 175–3) are schematic drawings of the exhaust gas sampling and analytical systems which will be used for testing under the regulations in this part. Since various configurations of the required components can produce accurate results, these schematic drawings are not to be interpreted literally and exact conformance is not mandatory. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

(b) * * *

(1) A dilution air filter assembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon level; and a second particulate filter to remove charcoal particles from the air stream.

(2) A leak-tight connector and tube to the vehicle tailpipe. The tubing shall be sized and connected in such a manner that the static pressure variations in the vehicle tailpipe(s) remain within ±5 inches of water of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). Sampling systems capable of tolerances to ±1 inch of water will be used by the Administrator if a written request by the manufacturer substantiates the need for this closer tolerance.

* * *

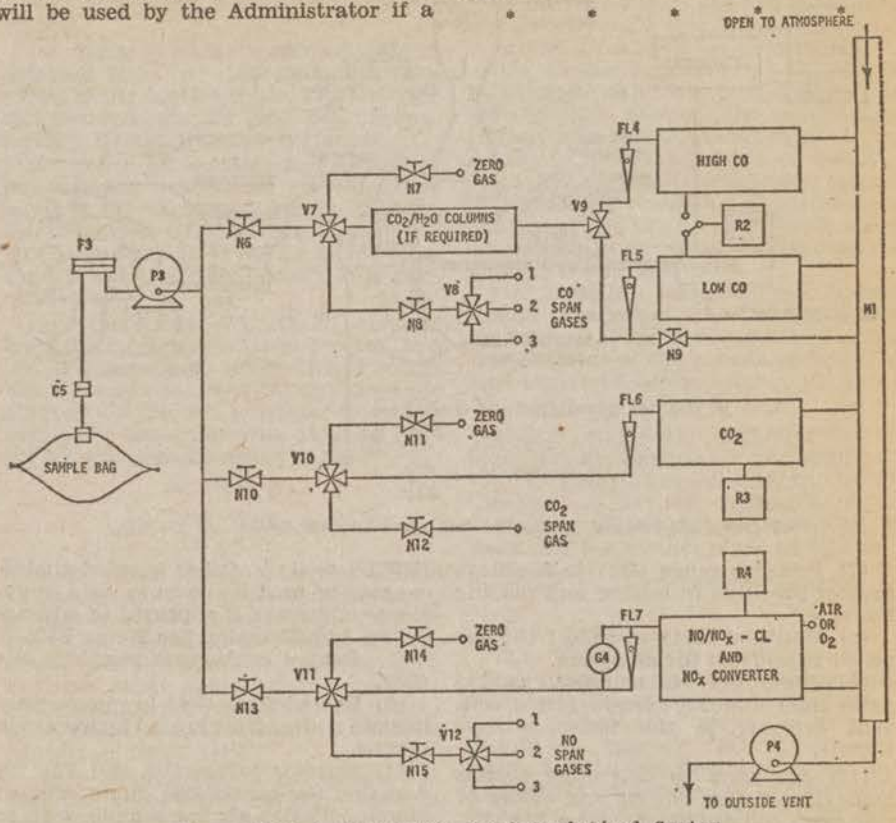


Figure B175-2 Exhaust Gas Batch Analytical System

(c) *Component description (exhaust gas batch analytical system).* The following components will be used in the exhaust gas batch analytical system for testing under the regulations in this part. The analytical system provides for the determination of carbon monoxide and carbon dioxide concentrations by nondispersive infrared (NDIR) analysis and the determination of oxides of nitrogen concentrations by chemiluminescence (CL) analysis in dilute exhaust samples. The chemiluminescence method of analysis requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. See Figure B 175–2.

(1) Quick-connect, leak-tight fitting (C5) to attach sample bags to analytical system.

(2) Filter (F3) to remove any residual particulate matter from the collected sample.

(3) Pump (P3) to transfer samples from the sample bags to the analyzers.

(4) Selector valves (V7, V8, V9, V10, V11, and V12) for directing samples, span gases or zeroing gases to the analyzers.

(5) Flow control valves (N6, N7, N8, N9, N10, N11, N12, N13, N14, and N15) to regulate the gas flow rates.

(6) Flowmeters (FL4, FL5, FL6, and FL7) to indicate gas flow rates.

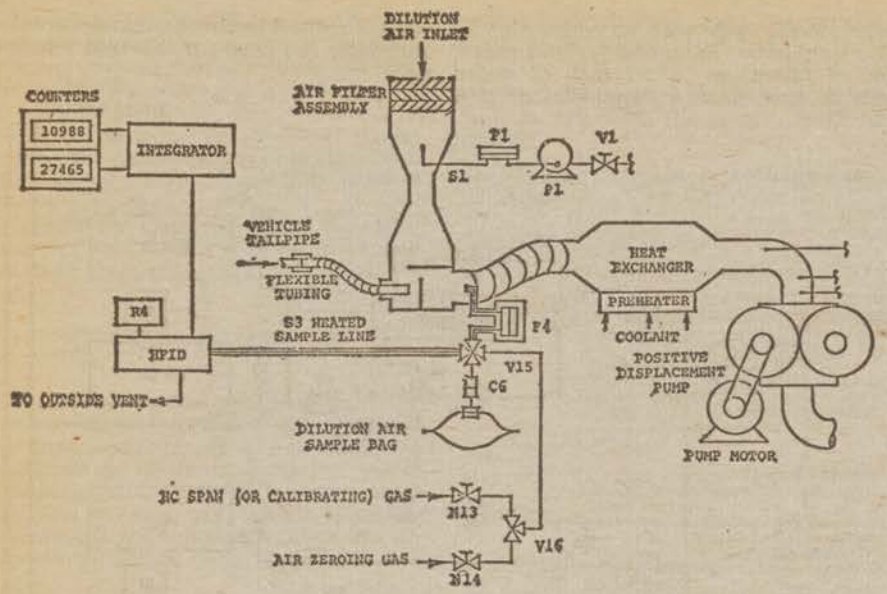


Figure B 175-3 Diesel Hydrocarbon Continuous Analysis System

(7) Pressure gauge (G4) to facilitate greater precision in setting and reading flowrate.

(8) Manifold (M1) to collect the expelled gases from the analyzers.

(9) Pump (P4) to transfer expelled gases from the collection manifold to a vent external to the testroom (optional).

(10) Analyzers to determine carbon monoxide, carbon dioxide and oxides of nitrogen concentrations (see 85.175–20(a)).

(11) Sample conditioning column containing $CaSO_4$ or indicating silica gel to remove water vapor and containing ascarite to remove carbon dioxide from the CO analysis stream.

NOTE: If CO instruments which are essentially free of CO_2 and water vapor interference are used, the use of the conditioning column may be deleted. See 85.175–19(m) and 85.175–23(c).

A CO instrument will be considered to be essentially free of CO_2 and water vapor interference if its response to a mixture of 3 percent CO_2 in N_2, which has been bubbled through water at room temperature (68°–86°F.), produces an equivalent CO response, as measured on the most sensitive CO range, which is less than 1 percent of full scale CO concentration on instrument ranges above 300 ppm CO or less than 3 ppm on instrument ranges below 300 ppm CO.

(12) Recorders (R1, R2, and R3) or digital printers to provide permanent records of calibration, spanning and sample measurements; or in those facilities where computerized data acquisition systems are incorporated, the computer facility printout may be used.

(d) *Component description (exhaust gas continuous analytical system).* The following components will be used in the exhaust gas continuous analytical system for testing under regulations in this part. This analytical system provides for the continuous determination of exhaust hydrocarbon concentration by heated flame ionization detector (HFID) analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. See Figure B175–3.

(1) Heated continuous sampling line (S3).

(2) Heated filter (F4) to remove particulate matter from heated hydrocarbon sample.

(3) Selector valves (V5 and V6) for directing the continuous dilute exhaust sample, dilution air bag sample, span or zeroing gases to the analyzers.

(4) Quick-connect, leak-tight fitting (C6) to attach dilution air sample bag to analytical system.

(5) Heated hydrocarbon analyzer (HFID) complete with heated pump, filter, and flow control system. The response time of this instrument shall be less than 1 second for 90 percent of full scale response. Sample transport time from sampling point to inlet of instrument shall be less than 4 seconds.

(6) Chart recorder (R1) and analog integrator with two readouts, or chart recorder (R1) and on-line digital computer for manual or electronic integration of analyzer output signal during the three operating phases of the test.

(7) Flow control valves (N4 and N5) to regulate the gas flow rates.

19. In § 85.175–19, paragraphs (g), (j), and (m) are revised. As amended, the section reads as follows:

§ 85.175–19 Information to be recorded.

* * * * *

(g) Indicated road load power absorption at 50 m.p.h. and dynamometer serial number. As an alternative to recording the dynamometer serial number, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator: *Provided,* The test cell records show the pertinent information.

* * * * *

(j) Test cell barometric pressure, ambient temperature, and humidity.

NOTE: A central laboratory barometer may be used: *Provided,* That individual test cell barometric pressures are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

* * * * *

(m) The humidity of the dilution air.

NOTE: If conditioning columns are not used (see § 85.175–18(c)(11)), this measurement can be deleted. If the conditioning columns are used and the dilution air is taken from the test cell, the ambient humidity can be used for this measurement.

* * * * *

20. In § 85.175–20, paragraph (a) is revised and Figure B175–8 is added. As amended, the section reads as follows.

§ 85.175–20 Analytical system calibration and sample handling.

(a) Calibrate the analytical assembly at least once every 30 days. Use the same flow rate as when analyzing samples.

(1) Adjust analyzers to optimize performance. Operate heated hydrocarbon analyzer, sampling line, and filter at 375°±10° F.

(2) Zero the hydrocarbon analyzer with zero grade air and the carbon monoxide, carbon dioxide, and oxides of nitrogen analyzers with zero grade air or zero grade nitrogen. The allowable zero gas impurity concentrations should not exceed 1 p.p.m. equivalent carbon response, 1 p.p.m. carbon monoxide, 400 p.p.m. (0.04 mole percent) carbon dioxide, and 0.1 p.p.m. nitric oxide.

(3) Set the CO and CO_2 analyzer gains to give the desired ranges. Select the desired attenuation scale of the HC analyzer, set the sample capillary flow rate by adjusting the back pressure regulator, and adjust the electronic gain control, if provided, to give the desired range. Select the desired scale of the NO_x analyzer and adjust the phototube high voltage supply or amplifier gain to give the desired range.

(4) Calibrate the HC analyzer with propane (air diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. Calibrate the NO_x analyzer with carbon monoxide (nitrogen diluent) gases and the CO_2 analyzer with carbon dioxide (nitrogen diluent) gases having nominal concentrations equal to 10, 25, 40, 50, 60, 70, 85, and 100 percent of full scale. Calibrate the NO_x analyzer with nitric oxide (nitrogen diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. The actual concentrations should be known to with ±2 percent of the true values.

(5) Compare values obtained on the CO and CO_2 analyzers with previous calibration curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curves for data reduction.

(6) NO_x converter efficiency determination. The apparatus described and illustrated in Figure B 175–7 or Figure B 175–8 is to be used to determine the conversion efficiency of devices that convert NO_x to NO.

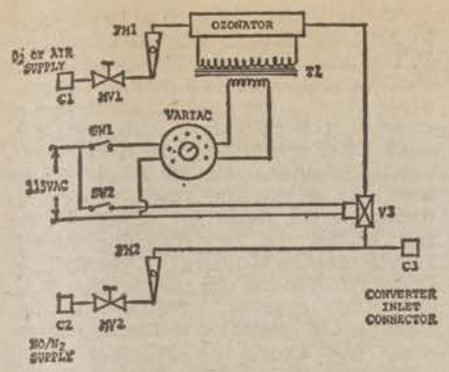


FIG. B 175-7—NOx CONVERTER EFFICIENCY DETECTOR

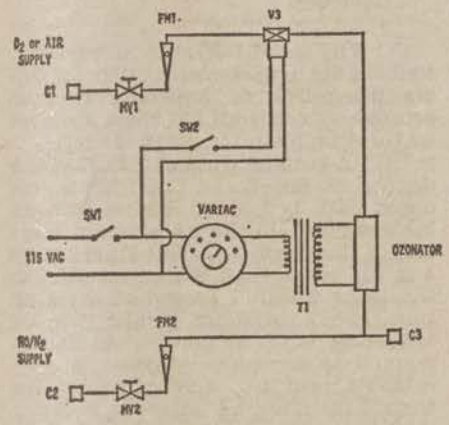


FIGURE B175-8 - NO_X CONVERTER EFFICIENCY DETECTOR

The following procedure is to be used for determining the values to be used in Equation (A).

(i) Attach the NO/N_2 supply (150–250 p.p.m.) at C2, the O_2 supply at C1 and the analyzer inlet connection to the efficiency detector at C3. If lower concentrations of NO are used, air may be used in place of O_2 to facilitate better control of the NO_2 generated during step (iv).

(ii) With the efficiency detector variac off, place the NO_2 converter in bypass mode and close valve V3. Open valve MV2 until sufficient flow and stable readings are obtained at the analyzer. Zero and span the analyzer output to indicate the value of the NO concentration being used. Record this concentration.

(iii) Open valve V3 (on/off flow control solenoid valve for O_2) and adjust valve MV1 (O_2 supply metering valve) to blend enough O_2 to lower the NO concentration (ii) about 10 percent. Record this concentration.

(iv) Turn on the ozonator and increase its supply voltage until the NO concentration of (iii) is reduced to about 20 percent of (ii). NO_2 is now being formed from the $NO+N_2$ reaction. There must always be at least 10 percent unreacted NO at this point. Record this concentration.

(v) When a stable reading has been obtained from (iv), place the NO_2 converter in the convert mode. The analyzer will now indicate the total NO_2 concentration. Record this concentration.

(vi) Turn off the ozonator and allow the analyzer reading to stabilize. The mixture $NO+O_2$ is still passing through the converter. This reading is the total NO_2 concentration of the dilute NO span gas used at step (iii). Record this concentration.

(vii) Close valve V3. The NO concentration should be equal to or greater than the reading of (ii) indicating whether the NO contains any NO_2. Calculate the efficiency of the NO_2 converter by substituting the concentrations obtained during the test into Equation (A).

EQUATION A

$$\%\text{Eff.} = \frac{(v)-(iv)}{(vi)-(iv)} \times 100\%$$

The efficiency of the converter should be greater than 90 percent. Adjustment of the converter temperature may be needed to maximize the efficiency. Efficiency checks should be made on each analyzer range using an NO span gas concentration appropriate to the instrument range. See alternate procedure in paragraph (a)(6)(viii).

(viii) Alternative to paragraph (a)(6)(vii): Close valve V3. The NO concentration should be equal to or greater than the reading of (ii) indicating whether the NO contains any NO_2.

Calculate the efficiency of the NO_2 converter by substituting the concentrations obtained during the test into Equation (A).

$$\text{(A)}\quad \%\text{Eff.} = \left[1 + \frac{(v-vi)}{(iii-iv)}\right] \times 100\%$$

The efficiency of the converter should be greater than 90 percent. Adjusting the converter temperature may be needed to maximize the efficiency. Although steps (ii) and (vii) are not used in the calculations, their values should be recorded to complete the data set for the test sequence. This procedure does not depend on the amount of NO_2 in the span gas nor the equivalence of flows in the bypass and converter modes; however, to be consistent with good operating practice, flows should be nominally the same, and the NO_2 concentration should be less than 5 percent of the NO_{x2} span concentration. Efficiency checks should be made at a frequency (daily to weekly) consistent with good quality assurance provisions.

(7) Check the efficiency of the sample conditioning system, if used, by the following procedure:

(i) Zero and span the CO instrument on its most sensitive scale.

(ii) Recheck zero.

(iii) Bubble a mixture of 3% CO_2 in N_2 through water at room temperature (68°–86° F.), through the conditioning column into the CO instrument. If the response meets the criteria of § 85.175–18(c)(11), then the conditioning column is functioning acceptably. If the response is higher than the specified limit, a new conditioning column should be installed and the test repeated.

(iv) Sample conditioning systems should be checked at a frequency consistent with observed column life or when the indicator of the column packing begins to show deterioration.

* * * * *

21. In § 85.175–21, paragraph (b)(15) is revised, the language in paragraph (b)(16) is deleted, and paragraphs (b)(17) through (b)(21) are redesignated (b)(16) through (b)(20), respectively. As amended, the section reads as follows:

§ 85.175–21 Dynamometer test runs.

* * * * *

(b) * * *

(15) Turn off the positive displacement pump or disconnect the exhaust tube from the tailpipe of the vehicle.

(16) Repeat the steps in subparagraphs (2) through (10) of this paragraph for the hot start test except only one evacuated sample bag is required for sampling exhaust gas and one for dilution air. The step in subparagraph (7) of this paragraph shall begin between 9 and 11 minutes after the end of the sample period for the cold start test.

(17) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously turn off the No. 1 revolution counter and position the sample solenoid valve to the "dump" position. (Engine shutdown is not part of the hot start test sample period.)

(18) As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the hot start "transient" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to § 85.175–20.

(19) Disconnect the exhaust tube from the vehicle tailpipe(s) and remove vehicle from dynamometer.

(20) The positive displacement pump may be turned off, if desired.

22. In § 85.175–23, paragraph (c) is revised. As amended, the section reads as follows:

§ 85.175–23 Calculations (exhaust emissions).

* * * * *

Where:

HC_e = Average hydrocarbon concentrations of the dilute exhaust sample as calculated from the integrated HC traces, in p.p.m. carbon equivalent.

HC_d = Hydrocarbon concentration of the dilution air as measured in p.p.m. carbon equivalent.

$NO_{x\,mass}$ = Oxides of nitrogen emissions, in grams per test phase.

Density_{NO_2} = Density of oxides of nitrogen in the exhaust gas, assuming they are in the form of nitrogen dioxide, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (54.16 gm./cu. ft.).

$NO_{x\,conc}$ = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in p.p.m.

$$NO_{x\,conc} = NO_{x\,e} - NO_{x\,d}(1 - 1/DF)$$

Where:

$NO_{x\,e}$ = Oxides of nitrogen concentration of the dilute exhaust sample as measured, in p.p.m.

$NO_{x\,d}$ = Oxides of nitrogen concentration of the dilution air as measured, in p.p.m.

CO_{mass} = Carbon monoxide emissions, in grams per test phase.

Density_{CO} = Density of carbon monoxide in grams per cubic foot at 68° F. and 760 mm. Hg pressure (32.97 gm./cu. ft.).

CO_{conc} = Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor and CO_2 extraction, in p.p.m.

$$CO_{conc} = CO_e - CO_d(1 - 1/DF)$$

Where:

CO_e = Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in p.p.m. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$$CO_e = (1 - 0.01925\ CO_{2e} - 0.000323\ R)\ CO_{em}$$

Where:

CO_{em} = Carbon monoxide concentration of the dilute exhaust sample as measured in p.p.m.

CO_{2e} = Carbon dioxide concentration of the dilute exhaust sample, in mole percent.

R = Relative humidity of the dilution air, in percent. (See 85.175–19(m))

CO_d = Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in p.p.m.

$$CO_d = (1 - 0.000323\ R)\ CO_{dm}$$

Where:

CO_{dm} = Carbon monoxide concentration of the dilution air sample as measured, in p.p.m.

NOTE: If a CO instrument which meets the criteria specified in 85.175–18(c)(11) is used and the conditioning column has been deleted, CO_{em} can be substituted directly for CO_e and CO_{dm} can be substituted directly for CO_d.

$$DF = \frac{13.4}{CO_{2e} + (HC_e + CO_e) \times 10^{-4}}$$

V_{mix} = Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528° R and 760 mm. Hg).

$$V_{mix} = V_0 \times N \frac{(P_B - P_1)\ (528°\ R)}{(760\ \text{mm. Hg})(T_p)}.$$

Where:

V_0 = Volume of gas pumped by the positive displacement pump, in cubic feet per revolution. This volume is dependent on the pressure differential across the positive displacement pump. (See calibration techniques in Appendix III)

N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

P_B = Barometric pressure in mm. Hg.

P_1 = Pressure depression below atmospheric measured at the inlet to the positive displacement pump.

T_p = Average temperature of dilute exhaust entering positive displacement pump during test while samples are being collected, in degrees Rankine.

K_H = Humidity correction factor.

$$K_H = \frac{1}{1 - 0.0047(H - 75)}$$

NOTE: The constant 0.0047 will be updated to reflect any data which becomes available on Light-Duty diesel engine tests.

Where:

H = Absolute humidity in grains of water per pound of dry air.

$$H = \frac{(43.478)\ R_a \times P_d}{P_B - (P_d \times R_a/100)}$$

R_a = Relative humidity of the ambient air, in percent.

P_d = Saturated vapor pressure, in mm. Hg at the ambient dry bulb temperature.

* * * * * * *

§ 85.275–5 [Amended]

23. In 85.275–5, paragraph (b)(2) is revised by substituting "may" for "will" after the words "of that combination" in the fourth sentence of the paragraph.

24. In § 85.275–13, a sentence is added after "conditions prescribed", paragraph (b)(1) is revised, and paragraph (d) is added. As amended, the section reads as follows:

§ 85.275–13 Evaporative emission collection procedure.

* * *. An alternative procedure to that described in paragraph (a) of this section is presented in paragraph (d) of this section.

* * * * *

(b) *Running loss test.* (1) The vehicle shall be placed on the dynamometer.

* * * * *

(d) *Alternative to paragraph (a): Diurnal breaching loss test.* (1) The test vehicle shall be allowed to "soak" in an area where the ambient temperature is maintained between 60° F. and 86° F. for a period of not less than 10 hours. (The vehicle preparation requirements of § 85.275–11 may be performed during this period.) It shall then be transferred to a soak area where the ambient temperature is maintained between 76° F. and 86° F.

(2) The fuel tank of the prepared test vehicle, preconditioned according to § 85.275–12, shall be drained and recharged with the specified test fuel, § 85.275–10(a), to the prescribed "tank fuel volume," defined in § 85.202. The temperature of the fuel prior to delivery to the fuel tank shall be between 50° and 60° F. Care should be exercised against abnormal loading of the evaporative emission control system or device as a result of fueling the tank.

(3) Connect the prescribed fuel tank thermocouple to the recorder and record the fuel and ambient temperatures at a chart speed of approximately 12 inches per hour (or equivalent record). Plug the exhaust pipe(s) and inlet pipe to the air cleaner and when the fuel temperature reaches 60°±2° F install the prescribed vapor collection systems on all fuel system external vents. Multiple vents may be connected to a single collection trap provided that, where there is more than one external vent on a fuel system distinguishing between carburetor and tank vapors, separate collection systems shall be employed to trap the vapors from the separate sources. Every precaution shall be taken to minimize the lengths of the collection tubing employed and to avoid sharp bends across the entire system.

(4) Artificial means shall be employed to heat the fuel in the tank to 84°±2° F. The prescribed temperature of the fuel shall be achieved over a period of 60 minutes±10 minutes at a constant rate of change of temperature with respect to time. After a minimum of 1 hour, following admittance to the 76° F.–86° F. soak area, the vehicle shall be moved onto the dynamometer stand for the subsequent part of the test. The fuel tank thermocouple may be temporarily disconnected to permit moving the test vehicle. Plugs shall be removed from the exhaust pipe(s) and inlet pipe to the air cleaner.

25. In § 85.275–14, paragraph (b) is revised. As amended, the section reads as follows:

§ 85.275–14 Dynamometer driving schedule.

* * * * *

(b) The speed tolerance at any given time on the dynamometer driving schedule prescribed in Appendix I or as printed on a driver's aid chart approved by the Administrator, when conducted to meet the requirements of § 85.275–15, is defined by upper and lower limits. The upper limit is 2 m.p.h. higher than the highest point on the trace within 1 second of the given time. The lower limit is 2 m.p.h. lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as occur when shifting manual transmission vehicles) are acceptable provided they occur for less than 2 seconds on any one occasion. Speeds lower than those prescribed are acceptable: *Provided,* The vehicle is operated at maximum available power during such occurrences. Further, speed deviations from those prescribed due to stalling are acceptable: *Provided,* The provisions of § 85.275–19(f) are adhered to. When conducted to meet the requirements of § 85.275–12, the speed tolerance shall be as specified above, except that the upper and lower limits shall be 4 m.p.h.

* * * * *

26. In § 85.275–15, paragraph (a) is corrected and paragraph (j) is revised. As amended, the section reads as follows:

§ 85.275–15 Dynamometer procedure.

* * * * *

(a) The dynamometer run consists of two tests, a "cold" start test after a minimum 12-hour soak according to the provisions of §§ 85.275–12 and 85.275–13 and a "hot" start test with a 10-minute soak between the two tests. Engine startup (with all accessories turned off), operation over the driving schedule, and engine shutdown make a complete cold start test. Engine startup and operation over the first 505 seconds of the driving schedule complete the hot start test. The exhaust emissions are diluted with air to a constant volume and a portion is sampled continuously during each test. The composite samples collected in bags are analyzed for hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen. A parallel sample of the dilu-

tion air is similarly analyzed for hydrocarbon, carbon monoxide, and oxides of nitrogen.

* * * * *

(j) If the dynamometer horsepower must be adjusted manually, it shall be set within 1 hour prior to the exhaust emissions test phase. The test vehicle shall not be used to make this adjustment. Dynamometers using automatic control of preselectable power settings may be set anytime prior to the beginning of the emissions test.

27. In § 85.275–20, paragraphs (a), (b)(1), (b)(2), and (c), and Figure C75–2 are revised. As amended, the section reads as follows:

§ 85.275–20 Sampling and analytical system (exhaust emissions).

(a) *Schematic drawings.* The following figures (Figs. C75–1 and C75–2) are schematic drawings of the exhaust gas sampling and analytical systems which will be used for testing under the regulations in this part. Since various configurations of the required components can produce accurate results, these schematic drawings are not to be interpreted literally and exact conformance is not mandatory. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

(b) * * *

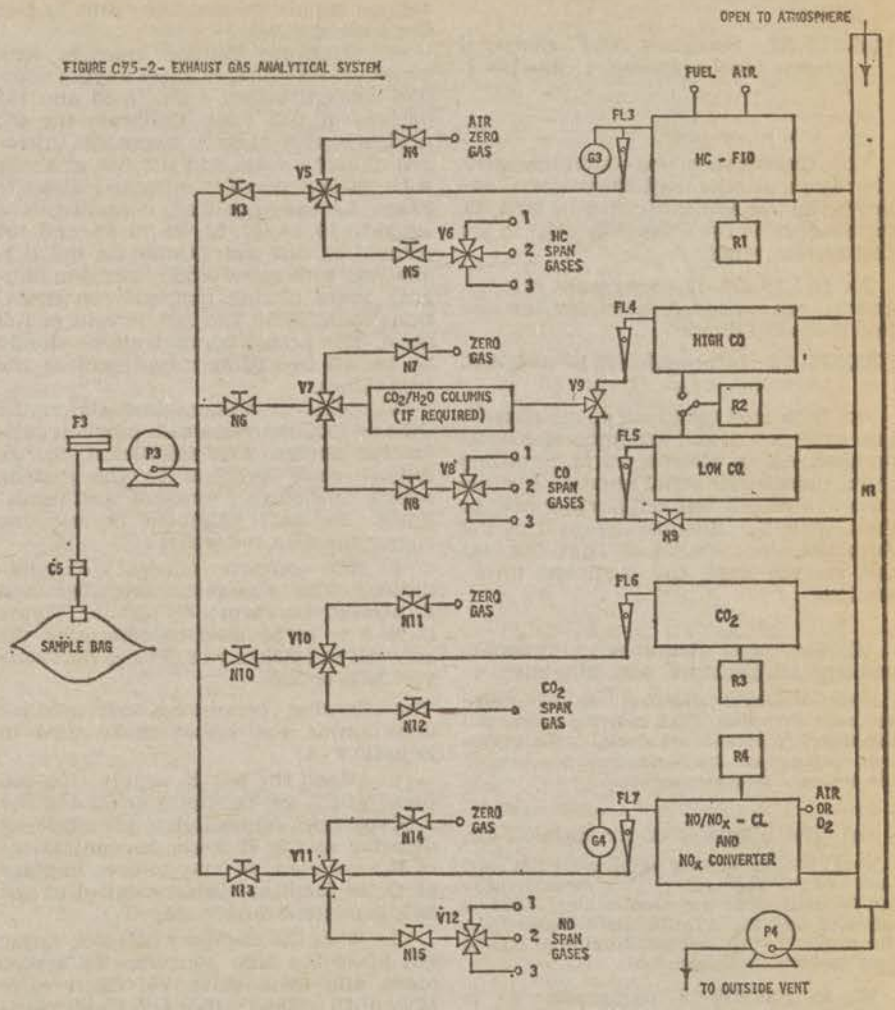
(1) A dilution air filter asembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon level; and a second particulate filter to remove charcoal particles from the air stream.

(2) A leak-tight connector and tube to the vehicle tailpipe. The tubing shall be sized and connected in such a manner that the static pressure variations in the vehicle tailpipe(s) remain within ±5 inches of water of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). Sampling systems capable of tolerances of ±1 inch of water will be used by the Administrator if a written request by the manufacturer substantiates the need for this closer tolerance.

* * * * *

(See figure attached)

(c) *Component description (exhaust gas analytical system).* The following components will be used in the exhaust gas analytical system for testing under the regulations in this part. The analytical system provides for the determination of hydrocarbon concentrations by flame ionization detector (FID) analysis, the determination of carbon monoxide and carbon dioxide concentrations by nondispersive infrared (NDIR) analysis and the determination of oxides of nitrogen concentrations by chemiluminescence (CL) analysis in dilute exhaust samples. The chemiluminescence method of analysis requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. See Appendix V. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. See Figure C75–2.



(1) Quick-connect leak-tight fitting (C5) to attach sample bags to analytical system.

(2) Filter (F3) to remove any residual particulate matters from the collected sample.

(3) Pump (P3) to transfer samples from the sample bags to the analyzers.

(4) Selector valves (V5, V6, V7, V8, V9, V10, V11, and V12) for directing samples, span gases or zeroing gases to the analyzers.

(5) Flow control valves (N3, N4, N5, N6, N7, N8, N9, N10, N11, N12, N13, N14, and N15) to regulate the gas flow rates.

(6) Flowmeters (FL3, FL4, FL5, FL6, and FL7) to indicate gas flow rates.

(7) Pressure gauges (G3 and G4) to facilitate greater precision in setting and reading flow rates.

(8) Manifold (M1) to collect the expelled gases from the analyzers.

(9) Pump (P4) to transfer expelled gases from the collection manifold to a vent external to the test room (optional).

(10) Analyzers to determine hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen concentrations. See § 85.275–23(a).

(11) Sample conditioning column containing $CaSO_4$ or indicating silica gel to remove water vapor and containing ascarite to remove carbon dioxide from the CO analysis stream.

NOTE: If CO instruments which are essentially free of CO_2 and water vapor interference are used, the use of the conditioning column may be deleted. See §§ 85.275–22(n), and 85.275–26(c). A CO instrument will be considered to be essentially free of CO_2 and water vapor interference if its response to a mixture of 3 percent CO_2 in N_2, which has been bubbled through water at room temperature 68°–86° F.), produces an equivalent CO response, as measured on the most sensitive CO range, which is less than 1 percent of full scale CO concentration on instrument ranges above 300 ppm CO or less than 3 ppm on instrument ranges below 300 ppm CO.

(12) Recorders (R1, R2, R3, and R4) or digital printers to provide permanent records of calibration, spanning and sample measurements; or in those facilities where computerized data acqui-

sition systems are incorporated, the computer facility printout may be used.

28. In 85.275–21, paragraph (b) (2) (iii) is revised. As amended, the section reads as follows:

§ 85.275–21 Sampling and analytical system (fuel evaporative emissions).

* * * * *

(b) * * *

(2) * * *

(iii) Collection tubing—stainless steel, aluminum, or other suitable material approved by the Administrator, 5/16 inch ID, for connecting the collection traps to the fuel system vents.

29. In § 85.275–22, paragraphs (g), (j), and (n) are revised. As amended, the section reads as follows:

§ 85.275–22 Information to be recorded.

* * * * *

(g) Indicated road load power absorption at 50 m.p.h. and dynamometer serial number. As an alternative to recording the dynamometer serial number, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator: *Provided*, That the test cell records show the pertinent information.

* * * * *

(j) Test cell barometric pressure, ambient temperature, and humidity.

NOTE: A central laboratory barometer may be used: *Provided*, That individual test cell barometric pressures are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

* * * * *

(n) The humidity of the dilution air.

NOTE: If conditioning columns are not used (see § 85.275–20(c)(11)), this measurement can be deleted. If the conditioning columns are used and the dilution air is taken from the test cell, the ambient humidity can be used for this measurement.

30. In § 85.275–23, paragraph (a) is revised and Figure C75–8 is added. As amended, the section reads as follows.

§ 85.275–23 Analytical system calibration and sample handling.

(a) Calibrate the analytical assembly at least once every 30 days. Use the same flow rate as when analyzing samples.

(1) Adjust analyzers to optimize performance.

(2) Zero the hydrocarbon analyzer with zero grade air and the carbon monoxide, carbon dioxide, and oxides of nitrogen analyzers with either zero grade air or zero grade nitrogen. The allowable zero gas impurity concentrations should not exceed 1 p.p.m. equivalent carbon response, 1 p.p.m. carbon monoxide, 400 p.p.m. (0.04 mole percent) carbon dioxide, and 0.1 p.p.m. nitric oxide.

(3) Set the CO and CO_2 analyzer gains to give the desired range. Select the desired attenuation scale of the HC analyzer, set the capillary flow rate by adjusting the back pressure regulator, and adjust the electronic gain control, if provided, to give the desired range. Select the desired scale of the NO_x analyzer and adjust the phototube high voltage supply or amplifier gain to give the desired range.

(4) Calibrate the HC analyzer with propane (air diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. Calibrate the CO analyzer with carbon monoxide (nitrogen diluent) gases and the CO_2 analyzer with carbon dioxide (nitrogen diluent) gases having nominal concentrations equal to 10, 25, 40, 50, 60, 70, 85, and 100 percent of full scale. Calibrate the NO_x analyzer with nitric oxide (nitrogen diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. The actual concentrations should be known to within ±2 percent of the true values.

(5) Compare values obtained on the CO and CO_2 analyzers with previous calibration curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curves for data reduction.

(6) NO_x converter efficiency determination: The apparatus described and illustrated in Figure C 75–7 or Figure C 75–8 is to be used to determine the conversion efficiency of devices that convert NO_x to NO.

The following procedure is to be used for determining the values to be used in Equation (A).

(i) Attach the NO/N_2 supply (150–250 ppm) at C2, the O_2 supply at C1 and the analyzer inlet connection to the efficiency detector at C3. If lower concentrations of NO are used, air may be used in place of O_2 to facilitate better control of the NO_2 generated during step (iv).

(ii) With the efficiency detector variac off, place the NO_x converter in bypass mode and close valve V3. Open valve MV2 until sufficient flow and stable readings are obtained at the analyzer. Zero and span the analyzer output to indicate the value of the NO concentration being used. Record this concentration.

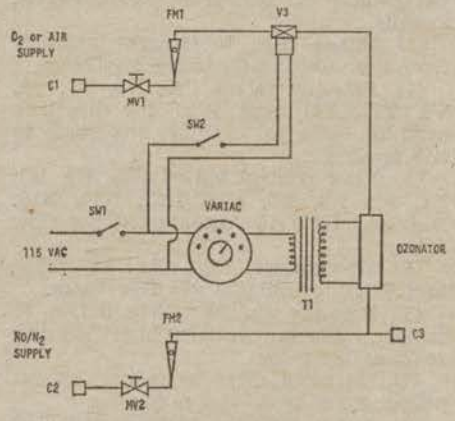


FIGURE C75-8 - NO_x CONVERTER EFFICIENCY DETECTOR

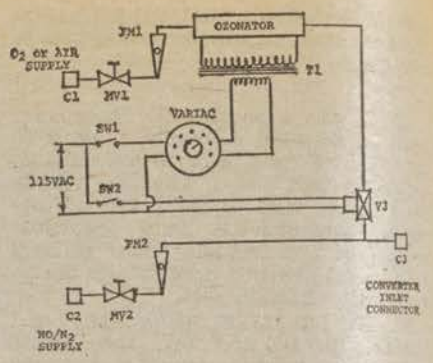


FIGURE 75-7—NO_x Converter Efficiency Detector

(iii) Open valve V3 (on/off flow control solenoid valve for O_2) and adjust valve MV1 (O_2 supply metering valve) to blend enough O_2 to lower the NO concentration (ii) about 10 percent. Record this concentration.

(iv) Turn on the ozonator and increase its supply voltage until the NO concentration of (iii) is reduced to about 20 percent of (ii). NO_2 is now being formed from the $NO+O_2$ reaction. There must always be at least 10 percent unreacted NO at this point. Record this concentration.

(v) When a stable reading has been obtained from (iv), place the NO_x converter in the convert mode. The analyzer will now indicate the total NO_x concentration. Record this concentration.

(vi) Turn off the ozonator and allow the analyzer reading to stabilize. The mixture $NO+O_2$ is still passing through the converter. This reading is the total NO_x concentration of the dilute NO span gas used at step (iii). Record this concentration.

(vii) Close valve V3. The NO concentration should be equal to or greater than the reading of (ii) indicating whether the NO contains any NO_x. Calculate the efficiency of the NO_x converter by substituting the concentrations obtained during the test into Equation

$$\%\text{Eff.} = \frac{(v)-(iv)}{(vi)-(iv)} \times 100 \text{ percent} \quad (A)$$

The efficiency of the converter should be greater than 90 percent. Adjusting the converter temperature may be needed to maximize the efficiency. Efficiency checks should be made on each analyzer range using an NO span gas concentration appropriate to the instrument range. See alternate procedure in paragraph (a)(6)(viii).

(viii) Alternative to paragraph (a)(6)(vii): Close valve V3. The NO concentration should be equal to or greater than the reading of (ii) indicating whether the NO contains any NO_2. Calculate the efficiency of the NO_x converter by substituting the concentrations obtained during the test into Equation (A).

$$(A)\ \%\text{Eff.} = \left[1 + \frac{(v-vi)}{(iii-iv)}\right] \times 100\%$$

The efficiency of the converter should be greater than 90 percent. Adjusting the converter temperature may be needed to maximize the efficiency. Although steps (ii) and (viii) are not used in the calculations, their values should be recorded to complete the data set for the test sequence. This procedure does not depend on the amount of NO_2 in the span gas nor the equivalence of flows in the bypass and converter modes; however, to be consistent with good operating practice, flows should be nominally the same, and the NO_2 concentration should be less than 5% of the NO_x span concentration. Efficiency checks should be made at a frequency (daily to weekly) consistent with good quality assurance provisions.

(7) Check the efficiency of the sample conditioning system, if used, by the following procedure:

(i) Zero and span the CO instrument on its most sensitive scale.

(ii) Recheck zero.

(iii) Bubble a mixture of 3% CO_2 in N_2 through water at room temperature (68°–86° F.), through the conditioning column into the CO instrument. If the response meets the criteria of § 85.275–20(c)(11), then the conditioning column is functioning acceptably. If the response is higher than the specified limit, a new conditioning column should be installed and the test repeated.

(iv) Sample conditioning systems should be checked at a frequency consistent with observed column life or when the indicator of the column packing begins to show deterioration.

* * * * *

31. In § 85.275–26, paragraph (c) is revised. As amended, the section reads as follows:

§ 85.275–26 Calculations (exhaust emissions).

* * * * *

(c) Meaning of symbols:

HC_{mass} = Hydrocarbon emissions, in grams per test phase.

$Density_{HC}$ = Density of hydrocarbons in the exhaust gas, assuming an average carbon to hydrogen ratio of 1:1.85, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (16.33 gm./cu. ft).

HC_{conc} = Hydrocarbon concentration of the dilute exhaust sample corrected for background, in p.p.m. carbon equivalent, i.e. equivalent propane × 3.

$$HC_{conc} = HC_e - HC_d(1 - 1/DF)$$

where:

HC_e = Hydrocarbon concentrations of the dilute exhaust sample as measured, in p.p.m. carbon equivalent.

HC_d = Hydrocarbon concentration of the dilution air as measured in p.p.m. carbon equivalent.

$NO_{x_{mass}}$ = Oxides of nitrogen emissions, in grams per test phase.

$Density_{NO_x}$ = Density of oxides of nitrogen in the exhaust gas, assuming they are in the form of nitrogen dioxide, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (54.16 gm./cu. ft.).

$NO_{x_{conc}}$ = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in p.p.m.

$$NO_{x_{conc}} = NO_{x_e} - NO_{x_d}(1 - 1/DF)$$

where:

NO_{x_e} = Oxides of nitrogen concentration of the dilute exhaust sample as measured, in p.p.m.

NO_{x_d} = Oxides of nitrogen concentration of the dilution air as measured, in p.p.m.

CO_{mass} = Carbon monoxide emissions, in grams per test phase.

$Density_{CO}$ = Density of carbon monoxide in grams per cubic foot at 68° F. and 760 mm. Hg pressure (32.97 gm./cu. ft.).

CO_{conc} = Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor and CO_2 extraction, in p.p.m.

$$CO_{conc} = CO_e - CO_d(1 - 1/DF)$$

where:

CO_e = Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in p.p.m. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$$CO_e = (1 - 0.01925CO_{2e} - 0.000323R)\,CO_{em}$$

where:

CO_{em} = Carbon monoxide concentration of the dilute exhaust sample as measured in p.p.m.

CO_{2e} = Carbon dioxide concentration of the dilute exhaust sample, in mole percent.

R = Relative humidity of the dilution air, in percent.

(see § 85.275–22(n))

CO_d = Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in p.p.m.

$$CO_d = (1 - 0.000323R)\,CO_{dm}$$

where:

CO_{dm} = Carbon monoxide concentration of the dilution air sample as measured, in p.p.m.

NOTE: If a CO instrument which meets the criteria specified in § 85.275–20(c)(11) is used and the conditioning column has been deleted, CO_{em} can be substituted directly for CO_e and CO_{dm} can be substituted directly for CO_d.

$$DF = \frac{13.4}{CO_{2e} + (HC_e + CO_e) \times 10^{-4}}$$

V_{mix} = Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528°R and 760 mm. Hg).

$$V_{mix} = V_o \times N \frac{(P_B - P_i)\,(528°R)}{(760\text{ mm. }Hg)\,(T_p)}$$

where:

V_o = Volume of gas pumped by the positive displacement pump, in cubic feet per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

(See calibration techniques in Appendix III)

N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

P_B = Barometric pressure in mm. Hg.

P_i = Pressure depression below atmosphere measured at the inlet to the positive displacement pump.

T_p = Average temperature of dilute exhaust entering positive displacement pump during test while samples are being collected, in degrees Rankine.

K_H = Humidity correction factor.

$$K_H = \frac{1}{1 - 0.0047\,(H - 75)}$$

where:

H = Absolute humidity in grains of water per pound of dry air.

$$H = \frac{(43.478)\,R_a \times P_d}{P_B - (P_d \times R_a/100)}$$

R_a = Relative humidity of the ambient air, in percent.

P_d = Saturated vapor pressure, in mm. Hg at the ambient dry bulb temperature.

* * * * *

32. In § 85.275–30, paragraph (b)(1)(ii) is corrected by deleting the words "the same" which follow the words "represent all vehicles".

33. In § 85.774–5 the language in paragraph (c)(2) is deleted and the space is reserved for future addition.

34. In § 85.874–5, paragraphs (b)(2) and (c)(1) are revised and paragraph (b)(3) is added. As amended, the section reads as follows:

§ 85.874–5 Test engines.

* * * * *

(b) * * *

(2) Engines of each engine family will be divided into groups based upon exhaust emission control system. One engine of each engine-system combination shall be run for smoke emission data as prescribed in § 85.874–7(a). Within each combination, the engine that features the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will usually be selected. If there are military engines with higher fuel rates than other engines in the same engine system combination, then one military engine shall be also selected. The engine with the highest fuel feed per stroke will usually be selected.

(3) The Administrator may select a maximum of one additional engine within each engine system combination based upon features indicating that it may have the highest emission levels of the engines of that combination. In selecting this engine, the Administrator will consider such features as the injection system, fuel system, compression ratio, rated speed, rated horsepower, peak torque speed and peak torque.

(c) * * *

(1) One engine from each engine-system combination shall be tested as prescribed in § 85.874–7(b). Within each combination, the engine which features the highest fuel feed per stroke, primarily at rated speed and secondarily at the speed of maximum rated torque, will usually be selected for durability testing. In the case where more than one engine in an engine-system combination has the highest fuel feed per stroke, the engine with the highest maximum rated horsepower will usually be selected for durability testing. If an engine system combination includes both military and nonmilitary engines, then the nonmilitary

engine with the highest maximum rated horsepower will usually be selected for durability testing.

* * * * *

35. In § 85.874–30, paragraph (b)(1)(i) is corrected and language for paragraph (b)(1)(ii) is added. As amended the section reads as follows:

§ 85.874–30 Certification.

* * * * *

(b)(1) * * *

(i) A test engine selected under § 85.874–5(b)(2) shall represent all engines in the same engine system combination.

(ii) A test engine selected under § 85.874–5(b)(3) shall represent all engines of that emission control system at the rated fuel delivery of the test engine.

* * * * *

36. In § 85.974–30, paragraph (b)(1)(i) is corrected and language for paragraph (b)(1)(ii) is added. As amended the section reads as follows:

§ 85.974–30 Certification.

* * * * *

(b)(1) * * *

(i) A test engine selected under § 85.974–5 in accordance with § 85.874–5(b)(2) shall represent all engines in the same engine system combination.

(ii) A test engine selected under § 85.974–5 in accordance with § 85.874–5(b)(3) shall represent all engines of that emission control system at the rated fuel delivery of the test engine.

* * * * *

Appendix V and Associated Schematic [Deleted]

37. Appendix V and the associated schematic are deleted.

[FR Doc.74–11764 Filed 5–22–74;8:45 am]

Title 7—Agriculture

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

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Dehydrated (Low-Moisture) Apricots [1]

On page 3831 of the FEDERAL REGISTER of January 30, 1974, a notice of proposed rulemaking was published that would amend the United States Standards for Grades of Dehydrated (Low-Moisture) Apricots by increasing the limits for moisture from the present 3.5 and 5.0 percent levels to a maximum of 7.5 percent for all styles. Interested persons were given until February 28, 1974, to submit written data, views, or arguments regarding the proposed amendment.

Statement of consideration leading to the amendment. Two major packers of dehydrated (low-moisture) apricots requested the amendment to the U.S. grade standards proposed in the FEDERAL REGISTER of January 30, 1974. The amendment would raise the present maximum moisture limits from 3.5 and 5.0 percent to 7.5 percent.

The rigors of the dehydrating process necessitate the use of a very high quality dried fruit to manufacture a U.S. Grade A dehydrated product. With the growing scarcity of high quality dried fruit, it has been necessary to use a fruit of lesser quality with respect to bruises. The additional processing needed to attain the 3.5 and 5.0 percent moisture level causes the appearance of the dehydrated product to be adversely affected by scorching. The Department feels that the proposed higher moisture level is a reasonable trade-off for retaining the high quality in flavor and appearance of low moisture product when it was processed from very high quality dried fruit.

Two dissenting consumer comments were received. They did not feel that they should be forced to pay for the additional water. The Department contends that:

1. Since these standards are voluntary they are not now controlling the marketing of dehydrated fruit at this moisture level; and

2. Moisture level, per se, is not a factor of quality and should be included in the standards at a high enough level to encompass all product that may be legally labeled "dehydrated" (the level may be restricted by buyers' specifications); and

3. Dehydrated apricots are primarily an institutional item used for remanufacture into bakery and other retail items. A higher moisture level is more suitable for such remanufacturing operations. Essentially the only product, as described by these standards, that reaches the consumer directly is packaged for hikers and back-packers and sold through sporting goods stores.

Comments received from industry support the increased moisture levels. This support is concurred in by the Fruit and Vegetable Division's inspection personnel.

After considering all relevant matters, including the proposal set forth in the aforesaid notice, the following amendment to the United States Standards for Grades of Dehydrated (Low-Moisture) Apricots is hereby promulgated, pursuant to the authority contained in the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624).

The amendment is:

Section 52.3872 is changed to read:

§ 52.3872 Moisture of low-moisture apricots.

The moisture content of all styles of the finished product shall not be more than 7.5 percent.

Effective date. The amendment to the United States Standards for Grades of Dehydrated (Low-Moisture) Apricots, which have been in effect since November 30, 1959, shall become effective on June 30, 1974.

Dated: May 20, 1974.

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

[FR Doc.74-11926 Filed 5-22-74;8:45 am]

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Dehydrated (Low-Moisture) Peaches [1]

On page 3831 of the FEDERAL REGISTER of January 30, 1974, a notice of proposed rulemaking was published that would amend the United States Standards for Grades of Dehydrated (Low-Moisture) Peaches by increasing the limits for moisture from the present 3.0 and 5.0 percent levels to a maximum of 7.5 percent for all styles. Interested persons were given until February 28, 1974, to submit written data, views, or arguments regarding the proposed amendment.

Statement of consideration leading to the amendment. Two major packers of dehydrated (low-moisture) peaches requested the amendment to the U.S. grade standards proposed in the FEDERAL REGISTER of January 30, 1974. The amendment would raise the present maximum moisture limits from 3.0 and 5.0 percent to 7.5 percent.

The rigors of the dehydrating process necessitate the use of a very high quality dried fruit to manufacture a U.S. Grade A dehydrated product. With the growing scarcity of high quality dried fruit, it has been necessary to use a fruit of lesser quality with respect to bruises. The additional processing needed to attain the 3.0 and 5.0 percent moisture level causes the appearance of the dehydrated product to be adversely affected by scorching. The Department feels that the proposed higher moisture level is a reasonable trade-off for retaining the high quality in flavor and appearance of low moisture product when it was processed from very high quality dried fruit.

Two dissenting consumer comments were received. They did not feel that they should be forced to pay for the additional water. The Department contends that:

1. Since these standards are voluntary they are not now controlling the marketing of dehydrated fruit at this moisture level; and

2. Moisture level, per se, is not a factor of quality and should be included in the standards at a high enough level to encompass all products that may be legally labeled "dehydrated" (the level may be restricted by buyers' specifications); and

3. Dehydrated peaches are primarily an institutional item used for remanufacture into bakery and other retail items. A higher moisture level is more suitable for such remanufacturing operations. Essentially the only product, as described by these standards, that reaches the consumer directly is packaged for hikers and back-packers and sold through sporting goods stores.

Comments received from industry support the increased moisture levels. This support is concurred in by the Fruit and Vegetable Division's inspection personnel.

After considering all relevant matters, including the proposal set forth in the aforesaid notice, the following amendment to the United States Standards for Grades of Dehydrated (Low-Moisture) Peaches is hereby promulgated, pursuant to the authority contained in the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624).

The amendment is:

Section 52.3912 is changed to read:

§ 52.3912 Moisture of low-moisture peaches.

The moisture content of all styles of the finished product shall not be more than 7.5 percent.

Effective date. The amendment to the United States Standards for Grades of Dehydrated (Low-Moisture) Peaches, which have been in effect since November 30, 1959, shall become effective on June 30, 1974.

Dated: May 20, 1974.

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

[FR Doc.74-11927 Filed 5-22-74;8:45 am]

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

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

[Valencia Orange Reg. 466]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period May 24–30, 1974. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

§ 908.766 Valencia Orange Regulation 466.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Valencia oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges continues to be good. Prices f.o.b. averaged $3.61 per carton on a reported sales volume of 896 carlots last week, compared with an average f.o.b. price of $3.51 per carton and sales of 535 carlots a week earlier. Track and rolling supplies at 683 cars were up 252 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Valencia oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 21, 1974.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period May 24, 1974, through May 30, 1974, are hereby fixed as follows:

(i) District 1: 369,000 cartons;

(ii) District 2: 324,000 cartons;

(iii) District 3: 207,000 cartons.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: May 22, 1974.

FRED DUNN,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74–12104 Filed 5–22–74;12:24 pm]

[Plum Regulation 10]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Regulation by Grades and Sizes

This regulation requires that all California plums grade U.S. No. 1 grade except that additional tolerances for defects not considered serious, including healed cracks, and gum spots, are permitted for specified varieties. It also establishes minimum size requirements for certain specified varieties in terms of the number of plums contained in an eight pound sample. This action is necessary to assure that the plums shipped will be of suitable quality and size in the interest of consumers and producers.

Findings. (1) Pursuant to the amended marketing agreement and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Plum Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of plums, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) This regulation is based upon the appraisal of the current and prospective market conditions for California plums. The committee estimates that 8,126,000 packages of plums will be available for shipment in the 1974 season compared with actual shipment of 6,693,000 packages last season. Although peach production in the 9 Southern States is forecast at 21 percent less than last year, industry reports indicate that 1974 shipments of fresh California peaches and nectarines will be considerably larger than last year. Such peaches and nectarines provide strong competition to California fresh plums. The grade and size requirements hereinafter set forth are necessary to prevent the handling of California plums of a lower grade or smaller size than specified herein for such plums so as to provide good quality fruit in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time;

and good cause exists for making the provisions hereof effective not later than May 24, 1974. A reasonable determination as to the supply of, and the demand for, such plums, which are currently regulated pursuant to Plum Regulation 9 (38 FR 12899, 15728) must await the development of the crop thereof, and adequate information thereon was not available to the Plum Commodity Committee until May 10, 1974, on which date an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such plums. Interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified was promptly submitted to the Department on May 13, 1974; shipments of the current crop of such plums are expected to begin on or about the effective date hereof; this regulation should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this regulation are identical with the aforesaid recommendation of the committee, information concerning such provisions and effective time has been disseminated among handlers of such plums; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

§ 917.434 Plum Regulation 10.

(a) Order: During the period May 24, 1974 through July 8, 1974, no handler shall ship any lot of packages or containers of any plums, other than the varieties named in paragraph (b) hereof, unless such plums grade at least U.S. No. 1.

(b) During the period May 24, 1974 through July 8, 1974, no handler shall ship:

(1) Any lot of packages or containers of Tragedy or Kelsey plums unless such plums grade at least U.S. No. 1, with a total tolerance of 10 percent for defects not considered serious damage in addition to the tolerances permitted by such grade; or

(2) Any lot of packages or containers of Angelino, Andy's Pride, Bee Gee Casselman, Empress, Fresno Rosa, Grand Rosa, Improved Late Santa Rosa, Late Santa Rosa, Linda Rosa, Red Rosa, Rosa Grande, Roysum, and Swall Rosa plums unless such plums grade at least U.S. No. 1, except that healed cracks emanating from the stem and which do not cause serious damage shall not be considered as a grade defect with respect to such grade; or

(3) Any lot of packages or other containers of Late Tragedy plums unless such plums grade at least U.S. No. 1, except that gum spots which do not cause serious damage shall not be considered as a grade defect with respect to such grade.

(c) During the period May 24, 1974 through July 8, 1974, no handler shall ship any package or other container of any variety of plums listed in Column A of the following Table I unless such plums are of a size that an eight-pound sample, representative of the sizes of the plums in the package or container, contains not more than the number of plums listed for the variety in Column B of said table.

TABLE I

Column A variety	*Column B plums-per-sample*
Ace	55
Amazon	64
Andy's Pride	69
Angelino	67
Beauty	91
Bee Gee	65
Burmosa	60
Casselman	63
Duarte	62
El Dorado	68
Elephant Heart	53
Emily	59
Empress	57
Friar	56
Frontier	61
Grand Rosa	54
July Santa Rosa	69
Kelsey	47
Laroda	58
Late Duarte	60
Late Santa Rosa (including Improved Late Santa Rosa and Swall Rosa)	64
Late Tragedy	93
Linda Rosa	63
Mariposa	61
Nubiana	56
President	57
Queen Ann	50
Red Beaut	91
Red Rosa	64
Red Roy	58
Rosa Grande	63
Roysum	76
Santa Rosa	69
Sim-ka, Arrosa, New Yorker	48
Standard	83
Tragedy	114
Wickson	51

(d) Plum Regulation 9 (38 FR 12899, 15728) is hereby terminated as of the effective date hereof.

(e) When used herein, "U.S. No. 1" and "serious damage" shall have the same meaning as set forth in the United States Standards for Fresh Plums and Prunes (7 CFR 51.1520–1538); and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

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

Dated: May 20, 1974.

FRED DUNN,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74–11982 Filed 5–22–74;8:45 am]

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

Countries to Which Restricted and Other Marketable Dates for Further Processing May Be Exported; the Netherlands

Notice was published in the April 30, 1974, issue of the FEDERAL REGISTER (39 FR 15041) regarding a proposal to add the Netherlands to the group of designated date processing and consuming countries north of the Mediterranean Sea to which restricted and other marketable dates meeting certain grade requirements for dates for further processing may be exported. The group of designated countries is specified in § 987.403 of Subpart—Market Determinations (7 CFR 987.401–987.403).

The proposal is pursuant to § 987.55 of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987), regulating the handling of domestic dates produced or packed in Riverside County, California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was unanimously recommended by the California Date Administrative Committee.

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. No such submissions were received.

Section 987.55 authorizes, among other things, the Committee, with the approval of the Secretary, to establish by country or groups of countries such special grade requirements for any variety of restricted dates for export as are deemed essential to the promotion of orderly marketing and facilities sales of such dates in export. That section also provides for the exportation of dates other than restricted dates (i.e., other marketable dates) if they meet the applicable requirements for export.

Pursuant to § 987.403, restricted dates and other marketable dates for further processing may be exported to the following designated date processing and consuming countries north of the Mediterranean Sea: Spain, France, Belgium, West Germany, Italy, and Greece. Processors in the Netherlands have expressed an interest in importing such dates.

To promote orderly marketing and to facilitate export sales of dates meeting the applicable grade requirements of § 987.203(b) for restricted dates and other marketable dates for further processing, the Netherlands should be added to the group of date processing and consuming countries to which dates for further processing may be exported. Authority to export such dates to the Netherlands would also provide the industry with flexibility in selling dates overseas, tend to increase sales of California dates, and tend to improve producer returns.

After consideration of all relevant matter presented, including that in the notice, the recommendation of the Committee, and other available information, it is hereby found that amendment of § 987.403 of Subpart—Market Determinations (7 CFR 987.401–987.403), as hereinafter set forth, is deemed essential to the promotion of orderly marketing and facilitate sales of such dates in export, and will tend to effectuate the declared policy of the act. This amendment adds the Netherlands to the group of date processing and consuming countries

north of the Mediterranean Sea to which restricted and other marketable dates certified as meeting the applicable grade requirements of § 987.203(b) for further processing may be exported.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) and for making this action effective at the time hereinafter provided in that: (1) This action relieves restrictions on handlers by permitting exportation of dates for further processing to an additional country; (2) processors in the Netherlands have expressed an interest in importing such dates and the domestic date industry should be afforded the opportunity to supply any such demand; (3) handlers are aware of this interest and are prepared to export such dates immediately, and require no additional time for preparation; and (4) no useful purpose would be served by postponing the effective time of this action.

It is, therefore, ordered, That § 987.403 of Subpart—Market Determinations (7 CFR 987.401–987.403) be amended by inserting "Netherlands," immediately after "Italy,".

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

Dated May 17, 1974, to become effective June 3, 1974.

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

[FR Doc.74–11783 Filed 5–22–74;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

This amendment quarantines portion of Aibonito, Coamo and an additional portion of Barranquitas Municipalities in the Commonwealth of Puerto Rico because of the existence of the contagion of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of Swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas.

Accordingly, Part 76, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, in paragraph (e)(1) relating to the Commonwealth of Puerto Rico, subdivision (i) relating to Barranquitas Municipality is amended and new subdivisions (v) relating to Aibonito and (vi) relating to Coamo Municipalities are added to read:

(1) *Commonwealth of Puerto Rico.* (i) That portion of *Barranquitas Municipality* comprised of all of Barrancas, Helechal, Quebradillas and Quebrada Grande Barrios.

* * * * *

(v) That portion of *Aibonito Municipality* comprised of all of Llanos, Asomante, Pasto and Algarrobo Barrios.

(vi) That portion of *Coamo Municipality* comprised of all of Coamo Arriba and Pulguillas Barrios and that portion of Cuyon Barrio lying north of River Rio Cuyon and that portion of Pasto Barrio lying north of River Cuyon and east of River Rio Coamo.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141)

Effective date. The foregoing amendment shall become effective May 17, 1974.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera, and must be made effective immediately to accomplish its purposes in the public interest. It does not appear that public participation in this rule-making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 17th day of May 1974.

J. M. HEJL,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74–11872 Filed 5–22–74;8:45 am]

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Area Quarantined

This amendment quarantines a portion of Hidalgo County in Texas because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined area.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

In § 82.3, in paragraph (a)(1) relating to the State of Texas, a new subdivision (v) relating to Hidalgo County is added to read:

§ 82.3 Areas quarantined.

(a) * * *

(1) *Texas.* * * *

(v) That portion of Hidalgo County lying south of U.S. Highway 83, west of the Cameron-Hidalgo County line; north of the United States-Mexico International Boundary line; and east of the Starr-Hidalgo County line.

* * * * *

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.)

Effective date. The foregoing amendment shall become effective May 16, 1974.

The amendment imposes certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 16th day of May 1974.

J. M. HEJL,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74–11871 Filed 5–22–74;8:45 am]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 74–420]

PART 525—ADVANCES

Rates of Interest on Advances

MAY 13, 1974.

The Federal Home Loan Bank Board considers it desirable to amend § 525.35 of the regulations for the Federal Home Loan Bank System (12 CFR 525.35) in order to permit the Federal Home Loan Banks to make advances to non-member mortgagees at the same rates of interest as on advances of like character to members, when authorized by the Board. Accordingly, the Board hereby revises

§ 525.35 to read as set forth below, effective May 13, 1974.

The present § 525.35 requires Federal Home Loan Banks to charge an interest rate differential, as therein specified, on advances to non-member mortgagees. As a result of the amendment, the Banks will be permitted flexibility where circumstances warrant and enabled to make advances to such non-members, if so authorized by the Federal Home Loan Bank Board, at the same interest rates as similar advances to members.

Since the above amendment relieves restriction, the Board hereby finds that notice and public procedure with respect to said amendment is unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of said amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendment would in the opinion of the Board likewise be unnecessary for the same reason, the Board hereby provides that said amendment shall become effective as hereinbefore set forth.

§ 525.35 Rates of interest.

In view of the fact that such nonmember mortgagees are not required to maintain an investment in the capital stock of a Bank as is required of members, the rates of interest to be charged on advances to non-member mortgagees shall be not less than one-half of 1 per centum nor more than 1 per centum higher than the rates of interest charged to members on advances of like character, unless otherwise authorized by the Board.

(Secs. 10, 17, 47 Stat. 731, 736, as amended 12 U.S.C. 1430, 1437); Reorg. Plan No. 3 of 1947 F.R. 4981, 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

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

[FR Doc.74–11879 Filed 5–22–74;8:45 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER B—CONSUMER PRODUCT SAFETY ACT REGULATIONS

PART 1105—SUBMISSION OF EXISTING STANDARDS; OFFERS TO DEVELOP STANDARDS; AND THE DEVELOPMENT OF STANDARDS

Consumer Product Safety Standards; Requirements and Procedures

Correction

In the document published as Part III at page 16206 of the issue for Tuesday, May 7, 1974, make the following changes: on page 16215 in the 14th line of § 1105.5 (b)(1), "end" should read "and"; and the Federal Register Document Number, which appears in the file line at the end of the document and which now reads "74–10731", should read "74–10371".

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER A—GENERAL RULES

[Docket No. R–368; Order No. 388–A]

PART 1—RULES OF PRACTICE AND PROCEDURE

Termination of Reporting Requirement

MAY 16, 1974.

The Commission by this order clarifies its previous Order No. 388, issued September 25, 1969 (34 FR 15344, Oct. 2, 1969). Order No. 388 terminated the reporting requirement of Schedule No. 520A, Curtailments of Field and Mainline Industrial Customers, of FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B).

The Schedule No. 520A reports had been filed separately from the Form No. 2 Annual Report as a confidential report not available to the public except by special request to the Commission. Order No. 388 terminated Schedule No. 520A and deleted it from the list of schedules in § 260.1 of 18 CFR. This order clarifies Order No. 388 by deleting the schedule from § 1.36(c)(15)(iii), Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations. § 1.36(c)(15) lists examples of information which is not part of the public records of the Commission. Since Schedule No. 520A has been terminated, reference to it as an example of non-public records is deleted.

The Commission finds:

(1) It is appropriate and in the public interest in administering the Natural Gas Act to amend the Commission's general rules as ordered herein.

(2) The notice and effective date provisions of 5 U.S.C. 553 do not apply with respect to the amendments here adopted. The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly section 16 (52 Stat. 830; 15 U.S.C. 717o), orders:

(A) Effective upon issuance of this order, § 1.36(c)(15), in Part 1, Subchapter A of Chapter I of Title 18 of the Code of Federal Regulations is amended to delete Subdivision (iii) and to renumber Subdivisions (iv) and (v) as (iii) and (iv), respectively.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11860 Filed 5–22–74;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—PAYMENT PROCEDURES

PART 130—ADVANCE OF FUNDS

Subpart D—Advance Right-of-Way Revolving Funds

Chapter I of Title 23, Code of Federal Regulations is amended by adding a new Subpart D, Part 130 as set forth below. Subparts A, B, and C of Part 130 are reserved for future issuances. Subpart D codifies policies and procedures contained in Volume 1, Chapter 3, Section 4 of the Federal-Aid Highway Program Manual.

In that this material relates to a grant-in-aid program, provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rule making, opportunity for public participation, and delay in effective date are inapplicable.

These regulations are issued under the authority of 23 U.S.C. 315 and the delegation of authority in 49 CFR 1.48(b). These regulations are effective on the date of issuance set forth below.

Issued on May 15, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

Sec.
130.401. Purpose.
130.402. Authority.
130.403. Request for advance.
130.404. Reports and audits.
130.405. Repayment.
130.406. Method of repayment.

Authority: 23 U.S.C. 315; delegation of authority as 49 CFR 1.48(b).

§ 130.401. Purpose.

To prescribe procedures and accounting requirements for advances from the right-of-way revolving fund.

§ 130.402. Authority.

23 U.S.C. 108(c) establishes a right-of-way revolving fund in the Treasury and authorizes the Secretary of Transportation to advance to any State, without interest, amounts available in such fund, to pay the entire costs of projects for the advance acquisition of right-of-way including moving and relocation costs.

§ 130.403. Request for Advance.

(a) Subsequent to obligations of funds in accordance with section 7, chapter 2, volume 7 of the Federal-Aid Highway Program Manual, a State desiring an advance of right-of-way revolving funds shall submit a letter of request to the division engineer. This letter shall include the following:

(1) Project numbers.

(2) Amount of advance per project required to:

(i) Meet estimated needs for next 90 days, or

(ii) Pay grantors based on recorded liabilities or actual disbursements.

(3) A statement that includes the following:

(i) Advance will be disbursed in accordance with provisions of 23 U.S.C. 108(c).

(ii) When advance is commingled with other funds, controls that will permit FHWA audit of the advance will be provided.

(iii) Interest earned on the advance will be paid promptly to FHWA.

(b) When the State needs the advance on an emergency basis, the Finance Division will accept a telephone request from the Regional Office and make the

advance on the assurance that the written request will be promptly transmitted.

§ 130.404. Reports and Audits.

(a) Each month any State utilizing the procedures under § 130.403(a)(2)(i) shall submit to the Division Engineer for transmittal to the Finance Division a statement showing:

(1) The date and amount of advances received, by project.

(2) Total expenditures through the 15th of the month, by project. This statement of advance and expenditures shall be forwarded promptly to insure receipt by the Finance Division by the 26th day of each month.

(b) The Division Engineer shall arrange for such periodic audit of the advance accounts as will determine compliance with the provisions of this directive.

§ 130.405. Repayment.

The State is required to repay the total amount advanced on a project as follows:

(a) Immediately upon termination of the period of time within which actual construction must be commenced (10 years following end of the fiscal year in which advance was made), or

(b) Upon approval by FHWA of the plans, specifications, and estimates for such project for the actual construction on the rights-of-way for which funds were advanced, or

(c) When project funded from the right-of-way revolving fund is withdrawn or is converted to a regular Federal-aid project.

§ 130.406. Method of repayment.

(a) If a project is terminated by expiration of the 10-year period or by withdrawal, the State should repay the amounts advanced for the project by check drawn to the order of the "Federal Highway Administration." Any net rental income or proceeds from the sale of properties shall be repaid by separate check.

(b) When a right-of-way project is converted to a regularly funded Federal-aid right-of-way project, full repayment will be made by check as in paragraph (a) of this section. Any net rental income and proceeds from sale of properties may be shown as a previous payment on the first voucher submission on the regularly funded project or repaid by check as in paragraph (a) of this section.

[FR Doc.74-11761 Filed 5-22-74;8:45 am]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT-FEDERAL HOUSING COMMISSIONER [FEDERAL HOUSING ADMINISTRATION]

[Docket No. R-74-268]

INTEREST RATE CHANGE

The following amendments are being made to this chapter to change the maximum interest rate which may be charged on a mortgage insured by this Department from 8½ percent to 8¾ percent. The Secretary has determined that such change is necessary to meet the mortgage market, in accordance with his authority contained in 12 U.S.C. 1709–1, as amended. The Secretary has, therefore, determined that advance notice and public procedure are unnecessary and that said cause exists for making this amendment effective May 13, 1974.

Accordingly, Chapter II is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

1. In § 203.20 paragraph (a) is amended to read as follows:

§ 203.20 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8¾ percent per annum with respect to mortgages insured on or after May 13, 1974.

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply Sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709)

2. In § 203.74 paragraph (a) is amended to read as follows:

§ 203.74 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 8¾ percent per annum with respect to loans insured on or after May 13, 1974.

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply Sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709)

PART 205—MORTGAGE INSURANCE FOR LAND DEVELOPMENT

Section 205.50 is amended to read as follows:

§ 205.50 Maximum interest rate.

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8¾ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after May 13, 1974.

(Sec. 1011, formerly Sec. 1010, 79 Stat. 464, 12 U.S.C. 1749jj; renumbered P.L. 89-754, Sec. 401(a), 80 Stat. 1271)

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

In § 207.7 paragraph (a) is amended to read as follows:

§ 207.7 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8¾ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after May 13, 1974.

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies Sec. 207, 52 Stat. 16, as amended; 12 U.S.C. 1713.)

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

1. In § 213.10 paragraph (a) is amended to read as follows:

§ 213.10 Maximum interest rate.

(a) The mortgage or a supplementary loan shall bear interest at the rate agreed upon by the mortagee and the mortgagor, or the lender and the borrower, which rate shall not exceed 8¾ percent per annum with respect to mortgages or supplementary loans upon completion) on or after May 13, 1974.

* * * * *

2. In § 213.511 paragraph (a) is amended to read as follows:

§ 213.511 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8¾ percent per annum with respect to mortgages insured on or after May 13, 1974.

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply Sec. 213, 64 Stat. 54, as amended; 12 U.S.C. 1715e.)

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

In § 220.576 paragraph (a) is amended to read as follows:

§ 220.576 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 8¾ percent per annum with respect to loans receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after May 13, 1974.

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply Sec. 220, 68 Stat. 596, as amended; 12 U.S.C. 1715k)

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

In § 221.518 paragraph (a) is amended to read as follows:

§ 221.518 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8¾ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after May 13, 1974. Interest shall be payable in monthly installments on the principal amount of the mortgage outstanding on the due date of each installment.

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies Sec. 221, 68 Stat. 599, as amended; 12 U.S.C. 17151)

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

In § 232.29 paragraph (a) is amended to read as follows:

§ 232.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8¾ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after May 13, 1974.

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies Sec. 232, 73 Stat. 663; 12 U.S.C. 1715w)

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

In § 234.29 paragraph (a) is amended to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8¾ percent per annum with respect to mortgages insured on or after May 13, 1974.

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies Sec. 234, 75 Stat. 160; 12 U.S.C. 1715y)

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

Section 235.540 is amended to read as follows:

§ 235.540 Maximum interest rate.

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8¾ percent per annum with respect to mortgages insured on or after May 13, 1974.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies Sec. 235, 82 Stat. 477; 12 U.S.C. 1715z)

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS

Section 236.15 is amended to read as follows:

§ 236.15 Maximum interest rate.

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8¾ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after May 13, 1974.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies Sec. 236, 52 Stat. 498; 12 U.S.C. 1715z-1)

PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES

Section 241.75 is amended to read as follows:

§ 241.75 Maximum interest rate.

The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 8¾ percent per annum with respect to loans insured on or after May 13, 1974. Interest shall be payable in monthly installments on the principal then outstanding.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies Sec. 241, 82 Stat. 508; 12 U.S.C. 1715z-b)

PART 242—MORTGAGE INSURANCE FOR HOSPITALS

Section 242.33 is amended to read as follows:

§ 242.33 Maximum interest rate.

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8¾ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after May 13, 1974. Interest shall be payable in monthly installments on the principal then outstanding.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies Sec. 242, 82 Stat. 5999; 12 U.S.C. 1715z-7)

PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES

In § 244.45 paragraph (a) is amended to read as follows:

§ 244.45 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8¾ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after May 13, 1974.

* * * * *

(Sec. 1104, 80 Stat. 1275; 12 U.S.C. 1749aaa-3)

Effective date. These amendments are effective as of May 13, 1974.

SHELDON B. LUBAR,
Assistant Secretary-Commissioner for Housing Production and Mortgage Credit.

[FR Doc.74-11921 Filed 5-22-74;8:45 am]

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-275]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * * * *

(24 CFR § 1914.4)

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*	*	*
Georgia	Muscogee	Columbus, city of	June 19, 1970. Emergency. Oct. 30, 1970. Regular. Mar. 1, 1974. Suspension. May 17, 1974. Reinstated.			
Minnesota	Redwood	Unincorporated areas	May 23, 1974. Emergency.	May 3, 1974		
Missouri	Dunklin	Cardwell, city of	do			

(24 CFR § 1914.4)

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
New York	Erie	Hamburg, town of	do			
Do	Onondaga	Cicero, town of	do			
Pennsylvania	Chester	Valley, township of	do			
Do	Westmoreland	Franklin, township of	do			
Virginia	Franklin	Unincorporated areas	do			

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 28, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: May 15, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74–11744 Filed 5–22–74;8:45 am]

[Docket No. FI–274]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * * * *

(24 CFR § 1914.4)

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*	*	*
Illinois	Du Page	Bensenville, village of	May 22, 1974 Emergency.	Apr. 12, 1974		
Maine	Kennebec	Winslow, town of	do	Mar. 22, 1974		
Maryland	Harford	Aberdeen, town of	do			
Minnesota	Itasca	Grand Rapids, city of	do	Oct. 26, 1973		
Missouri	St. Louis	Overland, city of	do	Jan. 23, 1974		
New York	Schenectady	Rotterdam, town of	do			
Oklahoma	Pontotoc	Ada, city of	do	Feb. 8, 1974		
Pennsylvania	Lancaster	Mount Joy, borough of	do	Jan. 9, 1974		
Tennessee	Rutherford	Murfreesboro, city of	do			
Washington	Kittitas	Ellensburg, city of	do	Dec. 17, 1973		
Do	do	Kittitas, city of	do			

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: May 15, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74–11745 Filed 5–22–74;8:45 am]

[Docket No. FI-273]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 **Status of participating communities.**

* * * * * * * * *

(24 CFR § 1914.4)

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*	*	*
Delaware	Kent	Harrington, city of	May 17, 1974. Emergency.	May 17, 1974		
Missouri	New Madrid	Portageville, city of	do	Jan. 9, 1974		
Oregon	Jackson	Rogue River, city of	do			
Texas	Bell	Temple, city of	do	Mar. 1, 1974		
Virginia	Prince George	Unincorporated areas	do			

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: May 10, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74-11746 Filed 5-22-74;8:45 am]

[Docket No. FI-272]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 **Status of participating communities.**

* * * * * * * * *

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*	*	*
Maine	Kennebec	Augusta, city of	May 16, 1974. Emergency.			
Michigan	Van Buren	South Haven, city of	do			
Do	Wayne	Lincoln Park, city of	do	May 3, 1974		
Minnesota	Mille Lacs	Isle, city of	do			
Do	Sherburne	Unincorporated areas	do			
Do	Steele	Owatonna, city of	do			
Do	Winona	Unincorporated areas	do			
New York	Erie	Lancaster, town of	do			
Do	Orange	Montgomery, village of	do	Mar. 15, 1974		
Pennsylvania	Tioga	Covington, township of	do			
Missouri	Cape Girardeau	Cape Girardeau, city of	Dec. 23, 1971. Emergency. Dec. 31, 1971. Suspension. May 14, 1971. Reinstated.			
Texas	Calhoun	Seadrift, city of	Dec. 4, 1972. Regular. Sept. 15, 1972. Suspension. May 10, 1974. Reinstated.			
Do	Grayson	Denison, city of	May 10, 1974. Emergency.			

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: May 10, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74-11747 Filed 5-22-74;8:45 am]

[Docket No. FI-271]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * * * *

(24 CFR § 1914.4)

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*	*	*
California	Sonoma	Healdsburg, city of	May 20, 1974. Emergency.	Mar. 1, 1974		
Iowa	Pottawattamie	Avoca, city of	do	Jan. 23, 1974		
Massachusetts	Hampden	Holyoke, city of	do	Apr. 12, 1974		
Michigan	Genessee	Grant Blanc, city of	do			
Minnesota	Dodge	Kasson, city of	do			
Do	Hennepin	Excelsior, city of	do			
Do	Martin	Unincorporated areas	do			
Missouri	St. Louis	Grantwood Village, town of	do	Mar. 8, 1974		
New Jersey	Monmouth	Middletown, township of	do			
North Carolina	Haywood	Clyde, town of	do			
Oklahoma	Seminold	Seminole, city of	do			
Washington	King	Issaquah, city of	do	Feb. 8, 1974		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: May 13, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74-11748 Filed 5-22-74;8:45 am]

Title 42—Public Health

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

SUBCHAPTER D—GRANTS

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATION IMPROVEMENT AND SCHOLARSHIPS

Nursing Student Loans

Correction

In FR Doc. 74-10741 appearing at page 16473 of the issue for Thursday, May 9, 1974, § 57.316 (b)(1)(iii) should read as set forth below:

(iii) Upon completion by the borrower of the third year of such service, the Secretary shall pay another 25 percent of the principal of, and interest on, each such loan which was unpaid as of the date the borrower began such service.

Title 50—Wildlife and Fisheries

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

PART 33—SPORT FISHING

Monte Vista National Wildlife Refuge, Colo.

The following special regulation is issued and is effective on May 23, 1974.

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

COLORADO

MONTE VISTA NATIONAL WILDLIFE REFUGE

Sport fishing by rod, reel and pole on the Monte Vista National Wildlife Refuge, Monte Vista, Colorado, is permitted from 1 p.m. to 5 p.m. on July 7, and from 8 a.m. to 5 p.m. on July 13, July 14, July 20, July 21, July 27, July 28, August 3 and August 4, 1974, but only on the area designated by signs as open to fishing. This open area, comprising one-half acre, is delineated on maps available at refuge headquarters, 6½ miles south of Monte Vista, Colorado, and from the Regional Director, Fish and Wildlife Service, 10597 West 6th Avenue, Denver, Colorado 80215. Sport fishing shall be in accordance with all applicable state regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through August 4, 1974.

CHARLES R. BRYANT,
Refuge Manager, Monte Vista National Wildlife Refuge, Monte Vista, Colorado.

MAY 16, 1974.

[FR Doc.74-11763 Filed 5-22-74;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

ELECTION OF FEDERAL EMPLOYEES' COMPENSATION; REVOCABILITY

On page 12898 of the FEDERAL REGISTER of April 9, 1974, there was published a notice of proposed regulatory development to amend § 3.708 to delete the provision that an election between Veterans Administration benefits and benefits under the Federal Employees' Compensation Act based on injury or death in military service in final. In addition minor editorial changes were made in § 3.711. 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. Section 3.708 is effective May 17, 1974.

Approved: May 17, 1974.

By direction of the Administrator.

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

1. Section 3.708 is revised to read as follows:

§ 3.708 Office of Federal Employees' Compensation.

(a) *Military service*—(1) *Initial election.* Where a person is entitled to compensation from the Office of Federal Employees' Compensation based upon disability or death due to service in the Armed Forces and is also entitled based upon service in the Armed Forces to pension, compensation or dependency and indemnity compensation under the laws administered by the Veterans Administration, the claimant will elect which benefit he or she will receive. Pension, compensation, or dependency and indemnity compensation may not be paid in such instances by the Veterans Administration concurrently with compensation from the Office of Federal Employees' Compensation. Benefits are not payable by the Office of Federal Employees' Compensation for disability or death incurred on or after January 1, 1957, based on military service.

(2) *Right of reelection.* Persons receiving compensation from the Office of Federal Employees' Compensation based on death due to military service may elect to receive dependency and indemnity compensation at any time. Once payment of dependency and indemnity compensation has been granted, all further right to Federal Employees' Compensation Act benefits is extinguished and only dependency and indemnity compensation is payable thereafter.

(3) *Rights of children.* Where primary title is vested in the widow or widower, the claimant's election controls the rights of any of the veteran's children, regardless of whether they are in the claimant's custody and regardless of the fact that such children may not be eligible to receive benefits under laws administered by the Office of Federal Employees' Compensation. A child who is eligible for dependency and indemnity compensation or other benefits independent of the widow's or widower's entitlement may receive such benefits concurrently with payment of Office of Federal Employees' Compensation benefits to the widow or widower.

(4) *Entitlement based on 38 U.S.C. 351.* The provisions of this paragraph are applicable also in those cases in which disability or death occurs as a result of having submitted to an examination, medical or surgical treatment, hospitalization or training.

(b) *Civilian employment.* Where a person is entitled to compensation from the Office of Federal Employees' Compensation based upon civilian employment and is also entitled to compensation or dependency and indemnity compensation under laws administered by the Veterans Administration for the same disability or death, the claimant will elect which benefit he or she will receive. On or after September 13, 1960, an award cannot be approved for payment of compensation or dependency and indemnity compensation concurrently with compensation from the Office of Federal Employees' Compensation in such instances and an election to receive benefits from either agency is final. See § 3.958. There is no right of reelection. (Public Law 86–767; 74 Stat. 906) A child who is eligible for dependency and indemnity compensation or other benefits independent of the widow's or widower's entitlement may receive such benefits concurrently with payment of Office of Federal Employees' Compensation benefits to the widow or widower.

2. Section 3.711 is revised to read as follows:

§ 3.711 Public Law 86–211.

(a) *World War I and later services.* Any person receiving or entitled to receive pension based on service in World War I, World War II or the Korean conflict under laws in effect on June 30, 1960, may elect to receive pension under 38 U.S.C. 521. An election of pension under 38 U.S.C. 521 is final when the payee (or his or her fiduciary) has negotiated one check for this benefit. There is no right of reelection.

(b) *Service prior to World War I*—(1) *General.* Veterans of the Indian wars who meet the service requirements of 38 U.S.C. 511(b) and veterans of the Spanish-American War who meet the service requirements of 38 U.S.C. 512(a) may elect to receive pension under 38 U.S.C. 521. Any widow or widower eligible for pension under 38 U.S.C. 536 may elect to receive pension under 38 U.S.C. 541. An election of pension under 38 U.S.C. 521 or 541 is final, except as provided in paragraph (b)(2) of this section, when the payee (or his or her fiduciary) has negotiated one check for this benefit. There is no right of reelection.

(2) *Aid and attendance.* Any veteran who meets the service requirements of paragraph (b)(1) of this section and who is receiving or entitled to receive pension based on need of regular aid and attendance will be paid whichever is greater: The monthly rate authorized by 38 U.S.C. 511(a) or 512(a), or the monthly rate authorized by 38 U.S.C. 521. A widow or widower of a veteran of the Spanish-American War who is receiving or entitled to receive pension based on a need of regular aid and attendance will be paid whichever is the greater: The monthly rate authorized by 38 U.S.C. 536 (a) and (b) and 544, or the monthly rate authorized by 38 U.S.C. 541 and 544. Elections are not required for these purposes. The change in rate will be effective the first day of the month in which the facts warrant such change. (38 U.S.C. 511, 512, 536, 541, 544; Public Law 92–328, 86 Stat. 393)

[FR Doc.74–11881 Filed 5–22–74;8:45 am]

proposed rules

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Chapter IX]

[Docket No. AO-378]

BENTGRASS SEED GROWN IN OREGON

Notice of Recommended Decision and Opportunity To File Written Exceptions With Respect to Proposed Marketing Agreement and Order

Pursuant to the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk, U.S. Department of Agriculture, of this recommended decision of the Department, with respect to a proposed marketing agreement and order (hereinafter referred to collectively as the proposed "order") regulating the handling of bentgrass seed grown in Oregon. Any order that may result from this proceeding will be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601–674), hereinafter referred to as the "act."

Interested persons may file written exceptions to this recommended decision with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, on or before June 12, 1974. They should be filed in quadruplicate. All such written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27 (b)).

Preliminary statement. A public hearing, on the record of which the proposed order was formulated, was held in Salem, Oregon, June 12, 13, and 14, 1973, pursuant to a notice thereof which was published in the May 8, 1973, issue of the FEDERAL REGISTER (38 FR 11465). Such notice set forth a proposed marketing agreement and order prepared and presented with a petition for a hearing thereon by the Highland Bentgrass Association.

The presiding officer announced at the hearing that all proposed findings and conclusions, and written arguments or briefs, based upon evidence received at the hearing may be filed with the Hearing Clerk, Administration Building, United States Department of Agriculture, Washington, D.C. 20250, and postmarked not later than August 31, 1973.

Purpose of the proposed order. The proponents of the proposed order have provided information in the proposal and the hearing record that it is their desire to establish and maintain orderly marketing conditions for colonial bentgrass seed grown in Oregon, and to establish and maintain such production research, marketing research, and development projects as will help effectuate orderly marketing of such bentgrass seed. The proponents have set forth that they propose to accomplish such purpose through the proposed order by: (1) allotting, or providing methods for allotting, the amount of colonial bentgrass seed, or quality thereof, which each handler may purchase from or handle on behalf of any and all producers thereof, during any specified period(s); and (2) establishing or providing for the establishment of production research, marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and use or efficient production of such bentgrass seed.

Material issues. The material issues presented on the record of the hearing are as follows:

(1) The existence of the right to exercise Federal jurisdiction;

(2) The need for the proposed regulatory program to effectuate the declared purposes of the act;

(3) The definition of the commodity and determination of the production area to be affected by the proposed order;

(4) The identity of the persons, and the marketing transactions to be regulated; and

(5) The specific terms and provisions of the proposd order including:

(a) Definition of terms used therein which are necessary and incidental to attain the declared objectives of the act, and including all those set forth in the notice of hearing, among which are those applicable to the following additional terms and provisions;

(b) The establishment, maintenance, composition, powers, and duties of a committee which shall be the administrative agency for assisting the Secretary in administration of the proposed order;

(c) The incurring of expenses and the levying of assessments on handlers to obtain revenue for paying such expenses;

(d) The method of regulating the handling of colonial bentgrass seed grown in the production area, including the establishment of base quantities and allocations and other terms and provisions relating to volume regulations;

(e) The establishment of requirements for reporting and recordkeeping on marketing transactions;

(f) The requirements of compliance with all provisions of the proposed order and with regulations issued pursuant thereto; and

(g) Additional terms and conditions of miscellaneous provisions published (38 FR 11465) as §§ ____.70 through ____.81 which are common to marketing orders and other terms and conditions published in §§ ____.82 through ____.84 which are common to marketing agreements only.

Findings and conclusions. The findings and conclusions on the aforementioned material issues, all of which are based on the evidence adduced at the hearing and the record thereof, are as follows:

Bentgrass seed (see definition in the proposed order limiting the proposed order to the Agrostis species, commonly known as colonial bentgrass) is an agricultural commodity to which marketing orders may be issued pursuant to the act. The proposed order should regulate the handling of bentgrass seed by restricting the quantity of bentgrass seed which may be freely handled by handlers. It should provide a method for allotting the quantity of bentgrass seed from any crop year among handlers based on amounts sold by growers during a representative period determined by the Secretary, to the end, that the total quantity to be handled from such crop year will be apportioned equitably among the growers. This is for the purpose of carrying out the declared policy of the act by establishing and maintaining orderly marketing conditions and increasing returns to growers for bentgrass seed so as to approach the parity price.

(1) Bentgrass seed is harvested and cleaned by growers and sold to handlers for shipment throughout the United States and the world. Almost 99 percent of the 9.4 million pounds (production in 1971) of the bentgrass seed grown in the United States was produced in Oregon.

The record indicates that normally over 95 percent of the bentgrass seed produced in Oregon is shipped for use in other states and foreign countries. The domestic market for bentgrass seed grown in Oregon is the entire United States. Usually, at least 90 percent of the bentgrass seed produced in Oregon is exported to foreign countries.

Therefore, it is concluded that the handling of bentgrass seed produced in Oregon is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in such commodity to such an extent as to make necessary the regulation of bentgrass seed grown in Oregon and handled for use in intrastate commerce as well as for use in interstate and foreign commerce.

It is determined from substantial evidence in the record of hearing on which these findings and conclusions are based that the right to exercise federal jurisdiction in the handling of bentgrass seed produced in Oregon is proper and appropriate under the act and the proposed marketing order hereinafter set forth.

(2) The need for the proposed regulatory program for bentgrass seed is supported by substantial evidence in the record of hearing. Prices received by growers for all bentgrass averaged $40.00 per hundredweight from sales of 9 million pounds for the 1972 crop. The June 1973 parity price for all the bentgrass seed was $72.22 per hundredweight. Prices received by growers were approximately 56 percent of the June 1973 parity price.

Price fluctuations for bentgrass seed were shown to be significant within crop years as well as between crop years. The price range during the last 14 years was from $22.00 in 1959 to $50.00 in 1969 per hundredweight for all bentgrass seed. Significant price fluctuations have continued through the years. During these years, costs of operations have increased.

The record of evidence showed that the average gross return of bentgrass for 1973 was $120.00 per acre, while the reported cost of production was $148.20 per acre. The record further indicated that this operating loss has been consistent through the years and has caused a decline in the number of growers each year.

Growers frequently finance production and harvesting costs with borrowed capital. Growers' assets are affected by the returns received from the bentgrass seed. Associated industries, such as credit agencies, manufacturers, and dealers in fertilizer, insecticides, machinery, etc., are directly affected by the wide price fluctuations growers receive for bentgrass seed.

Growers' motivations for increasing or decreasing production of bentgrass seed during any given season are influenced by prices received. Growers tend to plant in response to previous year's prices. Growers frequently are unable to accurately estimate their share of an indefinite or unknown annual supply and, therefore, plant in excess of the amount necessary to provide the market with a supply that would help avoid low returns to producers.

The record evidence shows that bentgrass growers, both individually and collectively, have been unable to cope with the industry-wide problem of balancing supply with demand. The favorable effects on price of reductions in production and sales of bentgrass seed by some individual producers have been negated by increases in production and sales by other producers.

According to the record, adduced at the hearing, growers of bentgrass seed in Oregon may expect that in the absence of a program such as proposed, conditions will likely continue to alternate between supplies in excess of demand resulting in depressed prices, and a period of relatively small supplies with sharply higher prices.

The record confirmed that need exists to regulate marketings by making allotments to growers which specify the maximum quantity of bentgrass seed a handler may purchase or handle from a grower, and thereby stabilize supplies, promote orderly marketing, and tend to cause prices to rise toward parity. The interests of consumers would be served by maintaining an adequate supply of bentgrass seed at more stable prices, and excessive price rises would be discouraged by removing all limitations on production and sales of bentgrass seed during any period when prices to growers have reached parity.

The need for a regulatory program, such as the proposed order, to better balance the supply of bentgrass with demand is clearly established in the record. Further, the terms and provisions of the proposed order which are authorized by the act would serve as a means of establishing and maintaining orderly marketing conditions for this commodity.

(3) Certain terms and provisions in the proposed order should be initially defined and explained therein for the purpose of designating specifically their applicability and limitations whenever they are thereafter used.

Accordingly, "Bentgrass" should be defined as the seed of those grasses of the Agrostis species identified as Agrostis tenuis, commonly known as colonial bentgrass, grown within the production area. The inclusion of all varieties under the specie Agrostis tenuis is necessary to effectively control the volume of marketing of bentgrass seed in the production area. Any exclusion of a variety of this specie would offer a means for producers to avoid volume controls and therefore negate the purpose and effect of the proposed order. Any variety of this specie of bentgrass could be produced and marketed under the proposed order.

However, the record shows that some handlers contracted with growers, prior to the time this proposed order was announced, for the production of certain proprietary varieties of the species Agrostis tenuis over a period of one or more future years. A proprietary variety, according to the record, should be considered as any variety of the specie Agrostis tenuis over which a person has exclusive ownership or control. The regulation of the handling of bentgrass seed produced under the terms of prior contracts could work an undue hardship on both the growers and the handlers. Therefore, it is concluded that all grower contracts for the production of proprietary varieties of bentgrass seed outstanding at the time of publication of this recommended decision should be exempt from such order as may be issued during the life of such contracts or for the ensuing four years, whichever period of time is shorter, provided that an application for such exemption is filed with the committee within 60 days from the effective date of any such order and a satisfactory showing of such facts is made to the committee (see § ____ .43 of the proposed order). Extensions of contracts or new contracts for the production of proprietary varieties of Agrostis tenuis entered into after the time of publication of this recommended decision should not be exempt from the proposed order.

Consideration was given to include the species Agrostis canina, commonly known as velvet bentgrass, and Agrostis palustris, commonly known as creeping bentgrass. Although these species are grown in Oregon and are in the same marketing channels, the evidence showed that these species should not be included because they do not compete directly with colonial bentgrass, Agrostis tenuis. The uses of these species are different from those of colonial bentgrass, Agrostis tenuis.

"Production Area" means the locale where the bentgrass seed grown is subject to the terms and provisions of the proposed marketing order. Growers in the State of Oregon produce almost 99 percent of the bentgrass seed grown in the United States. Some shifts in production have occurred from some parts of the State of Oregon to others and other shifts may occur in the future, because it is possible to produce bentgrass seed generally throughout the State. Bentgrass seed is now produced commercially in each hereinafter named district of the State. Therefore, it is determined that the State of Oregon constitutes the smallest regional production area that is practicable, consistent with carrying out the declared policy of the act and the production area should be so defined.

The production area should be defined as hereinafter set forth.

(4) The term "grower" should be deemed to be synonymous with producer and should be defined to mean any person engaged in a proprietary capacity in the production of bentgrass seed in the production area for market.

Growers include individuals, partnerships, corporations, or any other business units which in any way own all or a portion of the bentgrass seed produced. The term "grower" would include a husband and wife, who together produce bentgrass seed.

In sharecropping arrangements, each person receiving a share of the crop would be a grower. A cash renter of bentgrass acreage who produces bentgrass seed thereon and has the full right of disposition of the crop, would be the grower. For the purposes of nominating grower members, conducting elections and carrying out the proposed order, the Committee should establish a list of registered growers. Every person engaged in a proprietary capacity in the commercial production of bentgrass seed for market should be included on the list of registered growers.

"Handle" should be defined to mean the act or function, or both, of placing

bentgrass seed in the current of the commerce within the production area or between the production area and any point outside thereof. It should include the purchase of bentgrass seed from a grower, or the acquisition of bentgrass seed from a grower by any means, if bentgrass seed is viable seed. However, if bentgrass seed is ground into meal, heated, or its viability completely destroyed, the marketing of such product should not be termed handling bentgrass seed.

Handle should also mean to sell, consign, ship or transport bentgrass seed, except by a common or contract carrier of bentgrass owned by another person. The transporting of bentgrass seed within the production area by growers for cleaning and storage should not be construed as handling by such growers. However, if a grower sells, consigns, or otherwise places bentgrass seed into market channels, except through a registered handler, then the grower himself must be considered as a handler. "Handle" should not include the transaction where one grower sells or loans bentgrass seed to another grower in order to enable the latter to fulfill his allotment.

"Handler" should be defined in the proposed order to identify the persons who would be subject to regulation. It should mean any person who handles bentgrass seed. In order to facilitate administration of the proposed order, to obtain nominations and conduct elections of handler members of the Committee, to keep handlers informed of regulatory actions and monitor the quantity of bentgrass seed handled, all handlers should be registered with the Committee.

Any act by any person whereby he purchases cleaned bentgrass seed from a producer, or he sells or transports cleaned bentgrass seed within the production area or between the production area and any point outside thereof is handling.

The definition of "person" should be the same as that term is set forth in the act.

(5) (a) Certain terms applying to specific individuals, agencies, legislation, concepts, or things are used throughout the proposed order. These terms should be defined in the proposed order for the purpose of designating specifically their applicability and establishing appropriate limitations of their respective meanings wherever they are used.

The definition of "Act" provides the correct legal citations for the statute pursuant to which the proposed regulatory program is to be operative and avoids the need for referring to these citations throughout the proposed order.

Section 8c(7)(c) of the act (7 U.S.C. 608c(7)(c)) provides for an administrative agency for effective operation of an order. It is desirable to establish such an agency to administer this proposed order, as an aid to the Secretary in carrying out the purposes of the proposed order and the declared policy of the act. The term "Bentgrass Administrative Committee" is a proper identification of the agency and reflects the character thereof.

"Crop year" should be defined to mean the period July 1 through June 30 inclusive, as this period begins shortly before the beginning of harvest of bentgrass seed and continues for 12 consecutive months. It establishes an operation period for the levying of assessments, other financial operations, regulatory provisions and recordkeeping under the proposed order.

"Districts" should be defined as the geographical divisions of the production area which delineate the producing sections generally in accordance with industry understanding of subdivisions of the production area and to assure equitable representation of such subdivisions on the Committee.

The terms "Foundation Seed, Registered Seed, and Certified Seed" should be defined because they are terms relating to quality of seed and the proposed order makes provisions for using quality limitation as well as quantity limitation to aid in improving and stabilizing the market for bentgrass seed. The terms should be defined as specified in the regulations under the Federal Seed Act (7 U.S.C. 1551 et al.).

"Proprietary interest" is construed to mean the assumption of the risk or sharing the risk of loss in production and marketing of a crop of bentgrass seed. Each party to a joint venture should be considered a grower in proportion to the share of his proprietary interest; for instance, each party to a 50–50 joint venture should be considered the grower of half the bentgrass seed sold.

Since there are so many possible sharing arrangements by growers, rather than to try to cover them all in the proposed order, it is appropriate that the proposed order should provide that the administrative committee, with approval by the Secretary, develop criteria to cover such sharing arrangements as the necessity therefore arises.

"Proprietary variety" should be defined as any variety of bentgrass, as defined in the proposed order, over which a person has exclusive ownership or control. Some growers have contracted to produce proprietary varieties of bentgrass and sell the seed produced to the person owning or controlling the contract.

"Secretary" should be defined to include not only the Secretary of Agriculture of the United States, the official charged by law with the responsibility for programs of this nature, but also, in order to recognize the fact that it is physically impossible for him to perform personally all functions and duties imposed upon him by law, any other officer or employee of the U.S. Department of Agriculture who is, or who may hereafter be, authorized to act in his stead.

"Quantity" of bentgrass seed should be defined to mean the weight of cleaned bentgrass seed in pounds. It is customary for a grower to clean his bentgrass seed, or have it cleaned, before it is sold by him. Therefore the application of the term "quantity" to the bentgrass seed after it is cleaned is the customary way in which this term is used.

(b) Bentgrass Administrative Committee—Record evidence shows that a committee of 12 members, with representation as hereinafter provided in §_____.20, with a like number of alternates, should be a workable, equitable, representative committee providing adequate industry representation and assuring recommendations of marketing regulations reflective of the general consensus of the industry and should also be adequate for the discharge of the other various committee duties and responsibilities.

Since a declared policy of the act is to assist producers, it is appropriate that a preponderance of committee members should be producers. Nine of the twelve committee members should be growers of bentgrass seed for market at the time of their selection and during their term of office in the respective districts as hereinafter defined, or who are officers or employees of corporate producers in the respective districts. For purposes of committee membership, a grower is a handler if the quantity of bentgrass seed handled by him exceeds the quantity produced by him. Three handler members and their alternates, selected from the production area at large, who are currently handling bentgrass seed and who handled bentgrass seed during the previous crop year, should complement the producer membership, providing balanced judgments and a broad perspective of the production area bentgrass seed marketing situation.

Grower representation on the committee should be distributed among such districts on the basis of their past record of acreage and production in each district. This basis should provide equitable representation on the Committee and should also provide the separate districts with reasonable representation. This should be accomplished by allowing District No. 1, consisting of Marion County, Oregon, with approximately 68 percent of the production, 5 grower members; District No. 2, consisting of Linn County, Oregon, with approximately 12 percent of the production, 1 grower member; District No. 3, comprising Benton and Lane Counties, Oregon, with approximately 6 percent of the production, 1 grower member; District No. 4, comprising Polk and Yamhill Counties, Oregon, with approximately 6 percent of the production, 1 grower member; and District No. 5 embracing all other counties of Oregon, with under 3 percent of the production, 1 grower member.

The proposed order should provide for reapportionment and redistricting so that the Secretary may, upon recommendation of the Committee, give consideration to adjustments and to make adjustments when warranted in committee representation in the event of significant changing conditions in the future, such as major shifts in production within the production area.

Provisions should be included for growers in each district to nominate persons

for each committee member and alternate position to represent them on the Committee. It would be desirable to hold one or more public meetings to nominate the initial committee members and their alternates. However, if this procedure might cause undue delay, the Secretary should have the flexibility of accepting nominations obtained in an appropriate alternative manner.

If nominations cannot be obtained by the use of one or more public meetings, or by other means, without undue delay, the Secretary is authorized to select the committee without regard to nomination. Such selection should, of course, be on the basis of the representation provided in the proposed order.

Each person selected by the Secretary as a committee member or alternate should qualify by filing with the Secretary a written acceptance of his willingness and intention to serve in his position.

Provision should be set forth in the proposed order for the filling of any vacancies on the committee, including selection by the Secretary without regard to nominations where such nominations are not made as prescribed, in order to provide for maintaining a full membership on the committee.

The proposed order should provide that an alternate member shall be selected for each member of the committee in order to insure that each district has representation at meetings. Each alternate who is selected should have the same qualifications for membership as the member for whom he is alternate so that during the member's absence or in the event that the member should die, resign, be removed from office, or be disqualified, the district representation on the committee will remain unchanged. In such cases, the alternate should serve until a successor to such member has been selected and qualified.

A 3-year term, with the election of 4 committee members each year seems reasonable, and will allow the bentgrass seed industry to express its approval or disapproval of committee membership each year. The terms of office of the initial members of the committee should be established by the Secretary so the term of office for 3 grower members and 1 handler member should be the initial crop year, the term of office for 3 grower members and 1 handler member should be the initial crop year plus the succeeding crop year, and the term of office for 3 grower members and 1 handler member should be the initial crop year plus the 2 succeeding crop years. The terms of office of each committee member should continue until his successor is selected and has qualified.

With regard to committee meetings and procedure, the evidence of record shows that 9 members, including alternates acting as members, should be necessary to constitute a quorum and any action of the committee will require the concurring vote of at least 7 members.

The committee should have authority to follow procedures which will assure its proper and efficient operation. In order to facilitate the transaction of routine, noncontroversial business where it might be expensive and unreasonable to call an assembled meeting, or in other instances when rapid action may be necessary, the committee should be authorized to conduct meetings by telephone, telegraph or other means of communication. Such possibilities as conference telephone calls or simultaneous meeting of groups of its members in two or more places with direct communications connections should be considered and utilized if advantageous to the operation of the proposed order.

At least nine concurring votes and no dissenting votes should be necessary for approval of any committee action voted on at nonassembled meetings. Any votes cast at nonassembled meetings should be confirmed promptly in writing to provide a record of how each member, or the alternate acting in his stead, voted.

It is appropriate that the members and alternates of the committee be reimbursed for necessary expenses incurred when performing authorized committee business, since it would be unfair for them to bear personally such expense incurred in the interests of all bentgrass seed growers in the production area.

The committee should be given those specific powers which are set forth in section 8c(7)(c) of the act (7 U.S.C. 608c(7)(c)). Such powers are necessary to enable an administrative agency of this character to function properly under the proposed marketing order. The committee's duties as set forth in the proposed order are necessary for the discharge of its responsibilities. These duties are generally similar to those specified for administrative agencies under other programs of this nature.

An annual report should be prepared by the committee as soon as possible after the close of each marketing year to document fully its operations for the season to the industry and the Secretary.

(c) The committee should be authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it for its maintenance and functioning and to enable it to exercise its powers and perform its duties pursuant to the proposed order. The committee should be required to prepare a budget at the beginning of each crop year and as often as may be necessary thereafter, showing estimates of the income and expenditures necessary for the administration of the proposed order during such period. Each such budget should be submitted to the Secretary with an analysis of its components in the form of a report which should also recommend to the Secretary the rate of assessment believed necessary to secure the income required for that period. While expenses and income cannot be anticipated with exact mathematical certainty, the committee with its knowledge of conditions within the industry will be in good position to ascertain the necessary assessment rate and make recommendations in this regard. The funds to cover committee expenses should be obtained by levying assessments on handlers. The act specifically authorizes the Secretary to approve the incurring of expenses by the administrative agency established under the proposed order and requires that each order of this nature contain provisions requiring handlers to pay, pro rata, the necessary expenses.

As his pro rata share of such expenses, each person who first handles bentgrass seed during such crop year should pay assessments to the committee at a rate fixed by the Secretary on all bentgrass seed he so handles. In this way, each handler's total payment of assessments during a crop year would be proportional to the quantity of bentgrass seed handled by such handler and assessments would be levied on the same bentgrass seed only once.

The rate of assessment should be established by the Secretary on the basis of the Committee's recommendation, or the Secretary may use other available information in addition to that provided by the Committee so as to assure the imposition of such assessments as are consistent with the act. Such rate should be fixed on a unit basis, such as a pound or hundredweight.

The proponents proposed a modification of § _____.56. The record of evidence indicated that the original proposed maximum rate of assessment of 5 cents per hundredweight on current production levels would be very inadequate for the costs of establishing and maintaining the Committee. The proposed modification would set the maximum rate of assessment at 1 cent per pound. Although the Committee may be able to operate on a budget which, except for unusual circumstances would require an assessment below the maximum, this maximum rate seems fair and should be adopted.

Although handling of bentgrass from the production area is a continuous 12-month operation, the period near the beginning of the crop year will be one of extra activity, for the Committee will be closing out one crop year, auditing its account, preparing the annual report, surveying the crop and marketing situation, developing a marketing policy and holding meetings to develop recommendations for regulations. This means that in all probability a large percentage of the committee's expenses will be incurred in advance of receipt of income for the current crop year.

In order to provide funds for the administration of this program during the crop year prior to the time sufficient assessment income becomes available during such period, the committee should be authorized to accept advance payments of assessments from handlers and also, when such action is deemed to be desirable, to borrow money to meet such deficiency. Furthermore, the committee should be authorized to establish a reserve fund which could be used to pay operating expenses until assessments are received from the new crop year in sufficient amount to pay current expenses.

The provision for the acceptance by the administrative agency of advance assessment payments is included in other marketing order programs and has been found to be a satisfactory and desirable method of providing funds to cover costs of operation prior to the time when assessment collections are made in an appreciable amount. Revenue accruing to the committee from assessments later in the season would normally provide the means of repaying any loans.

Should it develop that assessment income during a crop year plus any funds in reserve would not, at the previously fixed rate, provide sufficient income to meet expenses, the funds to cover such expenses should be obtained by increasing the rate of assessment. Circumstances might necessitate amending the budget for the crop year to increase it and such increase would not have been planned in the original assessment rate. Since the act requires that administrative expenses shall be paid by handlers, this is the only source of income to meet such expenses. The increased assessment rate should be applied to all bentgrass seed handled during the particular crop year, so that the total payments by each handler during each crop year will be proportional to his share of the total volume of bentgrass seed handled by all handlers during that year.

Should the regulatory provisions of the proposed order be suspended during any portion or all of a crop year, it will be necessary to obtain funds to cover expenses during such year unless funds in the reserve are sufficient for such purpose. Thus authorization should be provided to require the payment of assessments to meet any necessary expenses during such year.

The assessment rates under the program would be set at the beginning of the crop year based on an estimate of number of pounds of bentgrass seed to be marketed. Should crop failure or partial crop loss reduce the crop so that assessment income falls below expenses, it might be necessary for handlers to cover the deficit through increased assessments. Since this would impose an extra burden on the industry, it would be equitable and less burdensome for handlers to establish an operating reserve during years of normal production. The reserve fund would be built during years when income exceeds expenses. In order that reserve funds not be accumulated beyond a reasonable amount, however, a limit of not to exceed approximately 1 crop year's expenses should be provided.

Except as necessary to establish and maintain an operating reserve as set forth in the proposed order, handlers who have paid part of any excess should be entitled to a proportionate refund of any excess funds that remain at the end of a crop year.

Upon termination of the proposed order, any funds in the reserve that are not used to defray the necessary expenses of liquidation should, to the extent practicable be returned to the handlers from whom such funds were collected. However, should the proposed order be terminated after many years of operation, the precise equities of handlers may be impractical to ascertain. Therefore, it would be desirable and necessary to permit the unexpended reserve funds to be disposed of in any manner that the Secretary may determine to be appropriate in such circumstances.

Funds received by the Committee from assessments should be used solely for the purpose of the proposed order. The Committee should as a matter of good business practice, maintain up-to-date books and records clearly reflecting the operation of its affairs. It should provide the Secretary with periodic reports at appropriate times such as at the end of each crop year or at such other times as may be necessary, to enable him to maintain appropriate supervision and control over activities and operations.

The proposed marketing order should provide authority for production and marketing research and market development. Such activity could contribute to greater efficiency in production and marketing and stimulate sales and use of bentgrass seed. Since the act contains no authority for paid advertising for bentgrass seed, market development does not include paid advertising.

(d) The declared policy of the act is to establish and maintain such orderly marketing conditions for bentgrass seed among other commodities, as will tend to establish parity prices to growers and be in the public interest. The regulation of the handling of bentgrass seed, as authorized in the proposed order, provides a means for carrying out such policy.

Growers begin to incur production cost shortly after September 1 for the ensuing crop year, and it is desirable to provide them with definite marketing guides as to the quantity of bentgrass seed that may be saleable so they can adjust their cultural and production plans accordingly. Since the marketing policy meeting is of importance to all segments of the bentgrass seed industry, except as otherwise provided by the Secretary, but not earlier than the preceding September 1, or such earlier date as the committee, with the approval of the Secretary, may establish, the committee should meet and adopt its marketing policy for the ensuing crop year.

In developing a comprehensive marketing policy, the committee should consider the prospective carryin of growers and handlers, the desirable carryout, trade demand, market prices for bentgrass seed and other relevant factors affecting marketing conditions. On the basis of its evaluation of these factors, the committee should recommend to the Secretary the total quantity of bentgrass seed (hereinafter referred to as the "Total Desirable Quantity") that should be allotted for handling during the crop year. If considerations indicate a need for limiting the quantity of bentgrass seed marketed, the committee should recommend to the Secretary a total desirable quantity and allotment percentage, hereinafter discussed, for the crop year.

The committee should meet again prior to February 1 of each crop year to review its marketing policy and, if conditions warrant, recommend to the Secretary an appropriate increase in the total desirable quantity and allotment percentage for the current crop year. Any increase should be to assure availability of adequate supplies, in view of changes in market conditions that may have taken place. A decrease would not be practical because it could cause undue hardship to the growers who had previously sold all of their allotment for the crop year.

Notice of marketing policy recommendations for a crop year and any later changes should be submitted promptly to the Secretary and also to all growers and handlers. This is necessary so all interested persons will be made aware of the marketing policy and can plan accordingly.

If the Secretary finds, on the basis of the committee's recommendation or other information, that limiting the quantity of bentgrass seed that may be freely marketed from a given crop would tend to effectuate the declared policy of the act, he should determine the total desirable quantity of bentgrass seed that may be acquired by handlers to meet normal market requirements and establish an annual allotment prcentage for the purpose of releasing such total desirable quantity. If market requirements warrant release of supplies in excess of the total of all grower allocation bases, an annual allotment percentage of over 100 percent should be established. The Secretary's action, while normally based on the committee's recommendation, may also take into consideration other information which, for example, might include such items as changes in crop or market conditions, the estimated season average price for bentgrass seed and legal limitations, if any, that might be applicable. The desirable quantity should be apportioned among growers on the basis of their individual allocation bases as discussed hereinafter. The proposed order should provide that in years when regulations are in effect handlers would be prohibited from handling bentgrass seed in excess of the growers allotment (except for any bentgrass seed exempted from provisions of the proposed order).

Operation of the proposed order should provide for apportioning among bentgrass seed growers the total desirable quantity of bentgrass seed that may be purchased from them. To equitably apportion this quantity of bentgrass seed, reliance should be based on pounds of sales-history of the growers.

The method of apportioning the desirable quantity of bentgrass seed for market should rely on the sales history of growers during the crop years 1967 through 1973. The evidence of record is that the initial base for existing growers should be the average crop year pounds of bentgrass seed produced and sold by him or on his behalf, during any one of the crop years 1967 through 1972 and that produced and sold by him during 1973 if such production and sales covered such two crop years. For growers who only had sales during one of the crop years 1967 through 1973, the sales

of that year would be his base. The use of the average is to moderate the influence of the unusually bountiful year or years or substantial loss for any grower while providing each with a base reflecting his volume of sales. The formula seems equitable and makes provisions for growers with only one crop year's sales history to be allowed an allocation base.

The proponents proposed a change in § ____.41, paragraph C, to provide for a 6-year adjustment instead of a 4-year adjustment. This change should accommodate the farming techniques of the bentgrass seed growers and encourage efforts to maintain and improve quality.

Allocation bases for succeeding crop years should be recomputed by adding the sales of bentgrass seed of the preceding year to the total number of pounds of bentgrass seed used to compute his preceding base and dividing by the number of years of sales of such bentgrass seed until a 6-year average has been computed.

For subsequent crop years, the allocation base should be recomputed by adding the sales of the preceding year, subtracting the poundage for the earliest chronological year of sales and determining a new average.

A grower must produce and sell to maintain his allocation base. Non-use of an allocation base for three consecutive years should be cause for cancellation of the base, because if this were not done, non-operators could tie-up a portion of the allotments and thus impede the proper functioning of the order.

For succeeding crop years, the Committee should recommend to the Secretary any adjustment in allocation bases that is required to reflect increased bentgrass seed usage, entry of new growers, and expansion by existing growers. A limitation of 5 percent of the total allocation bases for the preceding crop year should be used in granting bases for new growers and expansion for existing growers.

To assure equity to new producers, record evidence indicated that new producers should be given priority in granting the first 50 percent of any increase. In the absence of applications from new producers, for any or all of the first 50 percent of any increase, the unallocated portion of the first 50 percent and the second 50 percent of any increases in allocation bases should be distributed to growers with existing allocation bases.

The record indicates that both tenants and landlords should be protected in circumstances when a change of growers, either by lease or ownership, occurs. Cash tenants would be fully protected because allocation bases would be issued to the grower with proprietary interest in the crop. Questions arose over the position of the landlord in a cash-rent situation or both landlord and tenant in a share-rent situation. Any landlord or tenant (operating on a share-rent basis) who has potentially drastically lower allocation bases by reason of a change of either tenant or landlord, may apply to the Committee for new allocation bases. Likewise, any new tenant may apply for a new allocation base, provided he has not previously been assigned a base. The new allocation, in either case, would be provided from the maximum of 5 percent increase in allocations allowable each year and from anticipated increases in allocation bases resulting from grower retirement or surrender of their allocation bases for other reasons. Such procedure would seem to provide equal protection for both lessee tenants and land owners.

Administrative procedures required to establish volume limitations during the allocation period under the proposed marketing order are (1) determination of a base quantity for each grower, known as an "allocation base", and total of all allocation bases; (2) committee recommendations for and establishment by the Secretary of the total desirable quantity of bentgrass seed; (3) computation of a uniform percentage which the total desirable quantity is of the total of all allocation bases and (4) application of such uniform percentage to each producer's allocation base to determine his "allotment" in pounds of cleaned bentgrass seed for the crop year.

Administration of the proposed marketing order will be facilitated by computation of the uniform percentage referred to in (3) and (4) of the above paragraph. This provides a readily available and easily understood expression of the ratio of the total desirable quantity to the total of all allocation bases in the form of a ratio or percentage figure applicable to each grower. The uniform percentage provides each grower with an equitable allotment of the total desirable quantity under a uniform rule. His allotment is readily ascertainable by multiplying his allocation base by the uniform percentage. The resulting number of pounds of cleaned bentgrass seed thereby becomes his "allotment."

Provisions should be made for adjustment of a grower's allocation base when it is shown that during the base period, the growers' sales were substantially not representative due to unusual conditions beyond the control of the grower, such as adverse weather, insects, disease or fire.

The proponents proposed a modification to § ____.42 that would provide that not later than March 1 of each crop year, the Committee will, with approval of the Secretary, establish an allotment of bentgrass seed for the ensuing crop year for each grower who has an allocation base. The proposed modification would enable bentgrass seed growers with any anticipated excess production to make such changes in the management of their farm as they believe are appropriate, in view of their bentgrass seed allotment. The proposed modification seems reasonable and should be adopted.

If marketing conditions arise which make it appropriate that total allotments should exceed total allocation base quantities, the resulting uniform percentage should be applied to each grower's base so that his allotment will exceed 100 percent of his allocation base.

Provisions that an allotment be nontransferable except in conjunction with a transfer of an allocation base are in the proposal and, the evidence adduced at the hearing, make it clear that such provisions should be retained. Transfer of allocation bases should be permitted to facilitate changes in ownership of land and changes in enterprise of growers. An allotment is a percentage of an allocation base, therefore, the transfer of an allotment without accompanying transfer of an allocation base is not practical under the proposed order.

Since bentgrass seed production is not a process which can be precisely adjusted during a growing season to meet needs, it is unlikely that growers will always be able to precisely balance their supplies of bentgrass seed and their allotments. Some growers produce more than their allotments and other growers may produce less than their allotments. The record of evidence indicates provision should be made to allow for exchange of bentgrass seed between growers, without affecting their allotments, providing the amount of bentgrass seed which all handlers handle from any grower does not exceed his allotment. This provision is practical and will help to effectuate the purposes of the proposed order and should be approved. Alternatively, a grower who produces more than his allotment may carry over the excess into the following crop year for handling under a subsequent allotment.

Bentgrass seed in the hands of growers upon the effective date of the proposed order should be allowed to be marketed without regard to any allotment. However, growers should make application to the committee requesting that such bentgrass seed be designated as prior production. The committee may limit the amount certified for handling in any one crop year to not less than 25 percent of such prior production. Such limitation should be applied uniformly among all growers.

Occasionally bentgrass seed is obtained from cleaning cereal grain or other seed crop. Provisions should be made to exempt from the order the handling of a minimum quantity of bentgrass seed on behalf of any grower, regardless of whether it was obtained from cleaning or from his own production providing he has not been assigned a bentgrass seed allotment.

The record evidence showed that provisions should be made that contracts relating to proprietary varieties existing prior to the date of publication of this recommended decision be exempted from such order as may be issued, during the life of such contracts or for the ensuing four years, whichever period of time is shorter. Proprietary varieties should be defined in the proposed marketing agreement and order §____.12 as "any variety of the species Agrostis tenuis over which a person has exclusive ownership or control." Evidence of existing contracts by growers should be presented to the committee within 60 days from the effective

date of the proposed order. This provision should accommodate growers who have previously signed contracts to produce and market proprietary varieties of bentgrass seed to fulfill their outstanding contracts. Contracts relating to proprietary varieties entered into after the date of publication of this recommended decision should be covered under the proposed order.

Provisions should be made to require all bentgrass seed to meet the provisions of Federal and State seed acts and regulations issued thereunder. The committee should have the authority to establish higher standards for bentgrass seed handled under the proposed order. The Federal and State seed acts do not limit the size of a lot of seed. It is possible to have substantial quantities of seed within a large lot which is of lower or higher quality than the lot average. When such a large lot is subdivided into smaller lots the quality of some lots may be significantly different from the average quality of the large lot. Many buyers prefer to have the quality of each smaller unit equal to that of the large lot average. By regulating both quality and maximum size of lot, the marketing of bentgrass seed on a quality basis can be better controlled. The record evidence supports the quality regulation provisions of the proposed order. The establishing of higher standards would be made only if it were in the best interest of growers to insure a higher quality supply of seed. Any such proposed change should allow for a two years notice before the change could be made effective, thus allowing ample opportunity for consideration by all interested parties.

Provisions should be made for the purpose of identifying bentgrass seed under the proposed order. The identifying marks should be established by the committee.

Unfair trade practices by growers or handlers should be prohibited. The Secretary, upon recommendation of the committee, may prohibit such trade practices for any period or periods. The committee should recommend such rules, procedures and recordkeeping requirements as are necessary to administer the prohibitions.

The committee should have all necessary information and data for the performance of its functions under the proposed order including but not limited to that necessary to establish allocation base quantities, allotments, modifications thereof, and verification of compliance with regulations. The industry has routinely maintained adequate information and has it in its possession and the requirement that such information be furnished to the committee in the form of reports would not constitute an undue burden. It is difficult to anticipate every type of report or kind of information which the committee may find necessary in the conduct of its operations under the proposed order. One report that should be submitted by each handler is the quantity of bentgrass seed purchased from growers or the quantity of bentgrass seed handled on behalf of each and all growers. Therefore, the committee should have the authority to require, with approval of the Secretary, reports and information from handlers, as needed, of the type set forth in the proposed order, and at such times and in such manner as may be necessary.

All reports and records furnished or submitted pursuant to the proposed order to the committee should be treated as confidential and be disclosed to no person other than the Secretary and persons authorized by the Secretary. The record evidence makes it clear that members of the committee should not have access to confidential information about a handler or a grower. The employees of the committee would have access to such information. The reasons for this provision are sound and should be included in the proposed order. Under certain circumstances, release of information compiled from handlers' reports may be helpful to the committee and the industry generally. However, such reported information should not be released other than on a composite basis, and such releases should not disclose information concerning individual operations. Such prohibition is necessary to prevent the disclosure of information that may affect detrimentally the business operations of the persons who furnish the report. However, since the operation of this allocation program is inextricably involved with individual growers' allocation base quantities and allotments, such allocation bases and allotments should not be treated as confidential.

Since questions could arise with respect to compliance, it would be appropriate to provide in the proposed order that handlers be required to maintain for each marketing year complete records on their purchases, handling, and disposition of bentgrass seed. Such records should be retained for not less than 2 years after the termination of the marketing year in which the transaction occurred, so that, if needed in connection with enforcement, or other necessary purposes under the proposed order, the requisite records will be available for the purpose. Such a 2-year period would afford an adequate and reasonable time for access thereto and would not impose an unreasonable or burdensome obligation on handlers inasmuch as such records are generally retained for similar time for purposes of business operations.

The successful operation of the proposed order depends upon the degree of compliance with its provisions. In this connection, it is necessary that the committee's designees for this purpose be given full authority to examine and verify records and ascertain the quantity of bentgrass seed handled. The verification of records and reports and the inspection needed in connection therewith should be performed during reasonable working hours and in such manner that normal operations of the handlers would not be interrupted.

No handler should be permitted to handle bentgrass seed (as the term is hereinafter defined in the proposed order), the handling of which is prohibited pursuant to the proposed order; and no handler should be permitted to handle bentgrass seed (as the term is hereinafter defined in the proposed order) except in conformity with the proposed order. For example, no handler should be permitted to handle bentgrass seed from any grower in excess of such grower's allotment. If the program is to operate effectively, compliance therewith is essential; and, hence, no handler should be permitted to evade any of its provisions. Any such evasion on the part of even one handler could be demoralizing to the handlers who are in compliance and would tend, thereby, to impair the effective operation of the program.

The provisions of § _____.71 through § _____.81, as hereinafter set forth, are generally similar to those which are included in marketing agreements and orders now operating.

Such provisions are identified by section numbers and headings, as follows: § _____.71 *Right of the Secretary;* § _____.72 *Effective time;* § _____.73 *Termination or Suspension;* § _____.74 *Proceedings after termination;* § _____.75 *Effect of termination or amendment;* § _____.76 *Duration of immunities;* § _____.77 *Agents;* § _____.78 *Derogation;* § _____.79 *Personal liability;* § _____.80 *Separability;* and § _____.81 *Amendments;* and are incidental to and not inconsistent with the act and are necessary to effectuate the other provisions of the proposed order and to effectuate the declared policy of the act. The hearing record supports the inclusion of each such provision in the proposed order.

Provisions should be included requiring the Secretary to terminate the provisions of the proposed marketing agreement and order whenever he finds that any or all provisions of it obstruct or do not tend to effectuate the declared policy of the act, or at the end of any crop year whenever he finds that such termination is favored by a majority of the growers who, during such period, held allotments for more than 50 percent of the volume of all the allotments of all bentgrass seed in the area of production. Such determination should be made on the basis of a referendum conducted by the Secretary to determine whether the requisite number of growers favor termination of the program.

Those provisions which are applicable to the proposed marketing agreement only identified by section number and heading, are as follows: § _____.82 *Counterparts;* § _____.83 *Additional parties;* and § _____.84 *Order with marketing agreement.* Such provisions are also included in marketing agreements now in effect for other commodities and the record supports inclusion of such provisions in the proposed marketing agreement.

Rulings on briefs of interested parties. At the conclusion of the hearing, the Presiding Officer fixed August 31, 1973, as the time within which interested parties were to file briefs with respect to the evidence adduced at the hearing and the

findings and conclusions to be drawn therefrom.

Five briefs were filed on behalf of certain interested parties. These briefs were considered in conjunction with the evidence in the record in making the findings and conclusions set forth herein.

An objection was made to the inclusion of Seaside and Penncross varieties of bentgrass under the order because of the price differences between these varieties and colonial species of bentgrass. However, as indicated earlier in the recommended decision, the uses of Seaside and Penncross are different from those of colonial bentgrass and do not have a significant competitive relationship, and therefore the varieties Seaside and Penncross have been excluded from the proposed order.

An objection filed stated that the proposed order will not achieve its primary purpose—improving stability of prices because competition between bentgrass, bluegrass and the fine fescues will prevent the proposed order from attaining the desired results. Record evidence showed that the uses for colonial bentgrass seed are significantly different from the uses for the other kinds of seed referred to above. Record evidence adduced at the hearing further showed that each kind of grass seed has certain demand factors, largely independent of the demand factors for the other kinds of grass seed. The grass seeds bluegrass and the fine fescues are not directly competitive with colonial bentgrass seed. Therefore, the objection is denied.

An objection was filed to the definition of person as defined in § ____.10 of the proposed order on the grounds that it does not allow a vote to each individual in a partnership. The same kind of objection could have been made to allowing one vote for a business unit owned by a husband and wife. It is found and concluded that the provision in the proposed order for one vote for each business unit engaged in the commercial production of bentgrass for market is fair and reasonable.

An objection was filed to defining "Grower" in § ____.7 of the proposed order to mean any person engaged in a proprietary capacity in the commercial production of bentgrass for market, and proposed that only landowners should be included in the definition. The objection was intended to disqualify all tenants or other non-landowners engaged in a proprietary capacity in commercial bentgrass production. The objection is denied because it would fail to recognize those segments of the industry who are actually operating in a proprietary capacity in the commercial production of bentgrass seed for market.

To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions as set forth herein, the request to make such findings or reach such conclusions are denied for the reasons previously cited in this decision.

General findings. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The tentative marketing agreement and order, as herein set forth, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said tentative marketing agreement and order authorize regulation of the handling of bentgrass seed grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial or industrial activity specified in, a proposed marketing agreement and order upon which a hearing has been held;

(3) The said proposed marketing agreement and order are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of bentgrass seed grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of bentgrass seed grown in the production area, as defined in said proposed marketing agreement and order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Recommended marketing agreement and order. The following marketing agreement and order [1] are recommended as the detailed means by which the foregoing conclusions may be carried out:

DEFINITIONS

§ ____.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

§ ____.2 Bentgrass.

"Bentgrass" means bentgrass seed of those grasses of the Agrostis species identified as Agrostis tenuis (commonly known as colonial bentgrass) grown in the production area.

§ ____.3 Committee.

"Committee" means the Bentgrass Administrative Committee established pursuant to § ____.20.

§ ____.4 Crop year.

"Crop year" means the 12 months beginning July 1 of any year through June 30 of the following year inclusive, or such other period as the Committee, with the approval of the Secretary, may establish; except that the initial crop year shall begin on the effective date of this order and end a year after the following June 30.

§ ____.5 District.

"District" means the applicable one of the following defined subdivisions of the production area or as such subdivisions may be redefined pursuant to § ____.20.

(a) District 1—Marion County, Oregon.

(b) District 2—Linn County, Oregon.

(c) District 3—Benton and Lane Counties, Oregon.

(d) District 4—Polk and Yamhill Counties, Oregon.

(e) District 5—All other counties in Oregon.

§ ____.6 Foundation Seed, Registered Seed or Certified Seed.

"Foundation Seed, Registered Seed or Certified Seed" means the class of bentgrass seed as defined in § 201.2(cc), § 201.2(dd) or § 201.2(ee) of the regulations under the Federal Seed Act (53 Stat. 1275) (7 U.S.C. 1551 et al.).

§ ____.7 Grower.

"Grower" and "Registered Grower" is synonymous with "producer" and means any person engaged in a proprietary capacity in the commercial production of bentgrass for market. "Registered Grower" means any grower who has been registered as a grower with the Committee pursuant to rules and regulations issued by the Committee.

§ ____.8 Handle.

"Handle" means to purchase bentgrass from the grower thereof, or to sell, consign, ship or transport (except as a common or contract carrier of bentgrass owned by another person) or acquire bentgrass, whether or not of own production except that (a) the shipment or transportation within the production area of bentgrass by the grower thereof for cleaning or storage therein shall not be construed as "handling"; (b) the sale, shipment, or transportation of bentgrass by the grower thereof to a registered handler shall not be construed as handling by the grower; and (c) the transaction where one grower sells or loans bentgrass to another grower in order to enable the latter to fulfill his allotment shall not be construed as "handling."

§ ____.9 Handler.

"Handler" and "registered handler" means any person who handles bentgrass: *Provided, however,* That with respect to the acquisition of a grower's bentgrass by a person other than a registered handler, the grower shall be the handler of such bentgrass. "Registered handler" means any handler who has been registered as a handler with the Committee pursuant to rules and regulations issued by the Committee.

§ ____.10 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

[1] Sections 82, 83, and 84 apply only to the proposed marketing agreement and not to the proposed order.

§ ____.11 Production area.

"Production area" means the State of Oregon.

§ ____.12 Proprietary variety.

"Proprietary variety" means any variety of bentgrass of the species Agrostis tenuis over which a person has exclusive ownership or control.

§ ____.13 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the United States Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may be hereafter delegated to act in his stead.

§ ____.14 Quantity.

"Quantity" means the weight of cleaned bentgrass in pounds.

§§ ____.15–.19.

(Additional definitions as required).

BENTGRASS ADMINISTRATIVE COMMITTEE

§ ____.20 Establishment and Membership.

(a) There is hereby established a Bentgrass Administrative Committee consisting of twelve members, each of whom shall have an alternate. Nine of the members and each of their alternates shall be growers or officers or employees of growers, who are not also handlers. Of the grower members, five of them and each of their alternates shall be producers of bentgrass in District 1, one member and his alternate in District 2, one member and his alternate in District 3, one member and his alternate in District 4, and one member and his alternate in District 5. Three of the members and their alternates shall be handlers or officers or employees of handlers who shall be elected from the production area at large. A producer handler who is classified as a handler may serve as a handler member or alternate handler member only. For purposes of committee membership a grower is a handler if the quantity of bentgrass seed handled by him exceeds the quantity produced by him.

(b) The Committee, with the approval of the Secretary, may redefine the Districts into which the production area is divided, and reapportion the representation of any District on the Committee: *Provided*, That any such changes shall reflect, insofar as practicable, shifts in bentgrass production within the Districts and the production area.

§ ____.21 Eligibility.

Each grower member of the Committee and his alternate shall be, at the time of his selection and during his term of office, a grower or an officer or employee of a grower in the District for which selected. Each handler member of the Committee and his alternate shall be, at the time of his selection and during his term of office, a handler or an officer or employee of a handler.

§ ____.22 Nominations.

(a) *General.* Separate nominations shall be made for each member position and the respective alternate member for such position listed in § ____.20. Except as otherwise provided for obtaining initial nominations, nominations shall be certified by the Committee and submitted to the Secretary by June 1 of each crop year, together with information deemed by the Committee to be pertinent or requested by the Secretary. If nominations are not submitted in the specified manner by such date, the Secretary may, without regard to nomination, select the members and alternate members of the Committee on the basis of representation provided for in § ____.20.

(b) *Grower members.* The Committee shall conduct nominations for grower members and their respective alternates in each District through meetings or on the basis of ballots to be mailed by the Committee to all growers of record. Only growers eligible to serve on the Committee from the District in which the nominations are to be held shall be eligible to vote and each such grower shall have one vote for each grower position to be filled. If a grower is also a handler, such grower may vote either as a grower or as a handler, but not both. No grower shall participate in the election of nominees in more than one District regardless of the number of Districts in which such person is a grower. A multidistrict grower may elect the district in which he votes.

(c) *Handler nominations.* The Committee shall conduct nominations for handler members and their respective alternates through meetings or on the basis of ballots to be mailed by the Committee to all handlers of record. Each handler shall have one vote for each handler position to be filled.

(d) *Initial nominations.* For the purpose of obtaining the initial nominations, the Secretary shall perform the functions of the Committee as soon as practicable after the effective date of this proposed order.

§ ____.23 Selection.

(a) *Selection.* Members shall be selected by the Secretary from nominees submitted by the Committee or from among other eligible persons on the basis of the representation provided for in § ____.20.

(b) *Term of office.* The terms of office of the initial members of the Committee shall be established by the Secretary so that the term of office for three grower members and one handler member shall be the initial crop year, the term of office for three grower members and one handler member shall be the initial crop year plus the succeeding crop year, and the term of office for three grower members and one handler member shall be the initial crop year plus the two succeeding crop years. Successor members of the Committee shall serve for terms of three crop years, except for shorter terms occasioned by the death, removal, resignation, or disqualification of any member, and subject to any such disqualification, each member shall serve until his successor is selected and has qualified.

§ ____.24 Acceptance.

Each person selected by the Secretary as a member or alternate member shall qualify by filing a written acceptance with the Secretary as soon as practicable after being notified of his selection.

§ ____.25 Vacancy.

To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member or alternate member of the Committee, or in the event of the failure of any person selected as a member to qualify, a successor for the unexpired term or the term shall be nominated and selected in the manner provided in § ____.22 and § ____.23, so far as applicable, unless a selection is deemed unnecessary by the Secretary.

§ ____.26 Alternates.

(a) An alternate for a member of the Committee shall act in the place and stead of such member during his absence, and in the event of the member's removal, resignation, disqualification, or death until a successor for such member's unexpired term has been selected and has qualified.

(b) If a member or his alternate is unable to attend a Committee meeting, the Committee may designate any other alternate from the same group (grower or handler) and the same District to serve in the member's place if such alternate is not serving in the place of another member.

§ ____.27 Procedure.

(a) Nine members (including alternates acting as members) of the Committee shall constitute a quorum at an assembled meeting of the Committee and any action of the Committee at such meeting shall require the concurring vote of at least seven members (including alternates acting as members). At any assembled meeting, all votes shall be cast in person.

(b) All meetings of the Committee shall be public as to all matters affecting growers. For the purpose of handling intra-committee operations, or when circumstances do not allow time to call a public meeting, the Committee may provide for voting by mail, telephone, telegraph, or other means of communication upon due notice to all members and any proposition to be so voted upon first shall be explained accurately, fully, and identically. Any such vote other than by mail, telegraph, or other written means of communication shall be promptly confirmed by the member in writing or by telegraph. Nine concurring votes shall be required for approval of a Committee action so voted upon.

(c) Members and alternate members of the Committee shall serve without

compensation, but shall be allowed such reasonable expenses as approved by the Committee in attending to authorized Committee business.

§ ____.28 Powers.

The Committee shall have the following powers:

(a) To administer the provisions of this order in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this order;

(c) To receive, investigate, and report to the Secretary complaints of violations of this order; and

(d) To recommend to the Secretary amendments to this order.

§ ____.29 Duties.

The Committee shall have among others the following duties:

(a) To select from among its members such officers and adopt such rules or bylaws for the conduct of its meetings as it deems necessary;

(b) To hire employees, appoint such subcommittees and advisory committees as it may deem necessary, and to determine the compensation and to define the duties of each;

(c) To keep minutes, books, and records which will reflect all of the acts and transactions of the Committee and which shall be subject to examination at any time by the Secretary;

(d) To submit to the Secretary as soon as practicable after the beginning of each crop year a budget for such period, including a report in explanation of the items appearing therein, and a recommendation as to the rate of assessment for such period;

(e) To prepare quarterly statements of the financial operations of the Committee and to make copies of each such statements available to growers and handlers for examination at the office of the Committee and to send two copies to the Secretary;

(f) To cause the books of the Committee to be audited by a competent accountant (acceptable to the Secretary) at least once each crop year and at such other times as the Committee may deem necessary or as the Secretary may request, to submit two copies of each such audit report to the Secretary, and to make available a copy which does not contain confidential data for inspection at the office of the Committee by growers and handlers;

(g) To prepare a marketing policy each crop year which policy shall be submitted to the Secretary for his approval;

(h) To act as intermediary between the Secretary and any grower or handler;

(i) To investigate and assemble data on the growing, handling, and marketing conditions with respect to bentgrass;

(j) To submit to the Secretary such available information as he may request or the Committee may deem desirable and pertinent;

(k) To notify growers and handlers of all meetings of the Committee to consider recommendations for regulation; and of all regulatory actions taken affecting growers and handlers;

(l) To give the Secretary the same notice of meetings of the Committee and of meetings of its subcommittees as is given to the applicable membership; and

(m) To investigate compliance and to use means available to the Committee to prevent violations of the provisions of this order.

RESEARCH AND DEVELOPMENT

§ ____.30 Research and Development.

The Committee, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research, and development projects designed to assist, improve, or promote the marketing, distribution, and utilization or efficient production of bentgrass. The expense of such projects shall be paid from funds collected pursuant to § ____.56.

MARKETING POLICY

§ ____.35 Marketing Policy.

Prior to and as far in advance of each ensuing crop year as it finds feasible, but in any event not prior to the preceding September 1, the Committee shall submit to the Secretary a report setting forth the marketing policy it deems desirable for such crop year. Such marketing policy shall set forth the Committee's evaluation of the various factors of supply and demand that will affect the marketing of bentgrass during the crop year, including:

(a) *Carryin.* The estimated quantity of bentgrass in all hands (growers, handlers, brokers, and wholesalers) at the beginning (July 1) of the crop year;

(b) *Production.* The estimated bentgrass production during the crop year;

(c) *Trade Demand.* The prospective domestic and export trade demand, taking into consideration prospective imports;

(d) *Carryout.* The quantity in all grower and handler inventories at the end of the crop year;

(e) *Market prices for bentgrass; and*

(f) *Other relevant factors.* On the basis of its evaluation of these factors, the Committee shall recommend to the Secretary the total quantity of bentgrass (hereinafter referred to as the "Total Desirable Quantity") that should be allotted for handling during the crop year. If, in the event of subsequent changes in the supply and demand factors, the Committee deems it advisable that the total desirable quantity be increased for such crop year, it shall prepare a new or revised marketing policy and submit a report thereon to the Secretary together with its recommendations for an appropriate revision in the total desirable quantity for such crop year. The Committee shall announce each marketing policy (including new and revised policies) and notice and contents thereof shall be provided to growers and handlers by bulletins, newspapers, or other appropriate media.

VOLUME REGULATION

§ ____.36 Total desirable quantity.

Whenever the Secretary finds, on the basis of the Committee's recommendation or other available information, that establishing, limiting, or increasing the quantity of bentgrass available for handling during a crop year, would tend to effectuate the declared policy of the Act, he shall establish the total desirable quantity for such crop year, which all handlers may acquire in the crop year. The Committee shall equitably apportion such quantity among producers by establishing allocation bases and allotments as provided in § ____.41 and § ____.42.

§ ____.41 Grower Allocation Bases.

(a) Upon request of the Committee, each grower desiring an allocation base for bentgrass shall register with the Committee and furnish to it on forms prescribed by the Committee, a report of the number of pounds of such bentgrass produced by him and sold by him, or on his behalf, during each of the crop years 1967 through 1973, and names of handlers to whom sales were made as may be required by the Committee and approved by the Secretary.

(b) For the crop year which begins in 1974 a separate allocation base shall be established by the Committee for each registered grower in accordance with the option of such grower as either (1) the average crop year pounds of bentgrass produced and sold by him, or on his behalf, during any one of the crop years 1967 through 1972 and that produced and sold by him during 1973 if his production and sales covered such two crop years; or (2) the crop year pounds of bentgrass produced and sold by him, or on his behalf, during any one of the crop years 1967 through 1973 if he had production and sales in only one of such crop years.

(c) For each crop year subsequent to the crop year 1974, each allocation base shall be recomputed by the Committee as follows: (1) Allocation bases shall be adjusted by adding the grower's preceding crop year's sales of bentgrass to the total number of pounds used in computing his preceding allocation base and dividing by the number of years of sales of such bentgrass until a six year average has been computed; (2) and thereafter by (i) adding the grower's preceding crop year's sales of bentgrass to his six crop year's total sales of bentgrass used in computing his existing allocation base; (i) subtracting the quantity of sales of such bentgrass during the first of such six crop years; (iii) recalculating a new six crop year simple average which shall be the new allocation base.

(d) A condition for the continuing validity of an allocation base is production and sale of bentgrass thereunder. If no bona fide effort has been made in reference to the original allocation base, to produce and sell bentgrass thereunder during any three consecutive crop years, such allocation base

shall be declared invalid due to lack of use and cancelled at the end of such third consecutive year of non-production and sale.

(e) The Committee shall, for the crop year 1975 and each subsequent year, recommend to the Secretary an adjustment in allocation bases which will reflect (1) increase in usage of bentgrass; (2) desires of new growers to gain entry, and growers with existing allocation bases to expand, as evidenced by application for allocation bases or increased allocation bases; and (3) any additional factors which bear on industry adjustments to new and changing conditions.

(f) (1) Notwithstanding the foregoing provisions of paragraph (e) of this section any increase in the quantity of bentgrass provided for by this order shall be no more than 5 percent of the total of all allocation bases encompassed by this order during the previous crop year: *Provided*, That new growers, if any, shall be accorded priority in granting the first 50 percent of any such increase. In the absence of applications from new producers for any or all of the first 50 percent of any increase, the unallocated portion of the first 50 percent and the second 50 percent of any increases in allocation bases shall be equitably distributed to growers with existing allocation bases.

(2) Any person may apply, under rules and procedures to be established by the Committee with the approval of the Secretary, either for a new allocation base or for an increase in an existing allocation base. Such applications may be submitted each crop year, but must be filed with the Committee not later than January 1 of a crop year in order to be considered for an award of a new allocation base or the adjustment of an existing allocation base to take effect the following crop year.

(g) The Committee recommendations, with justifications, supporting data, and a listing and summary of all applications for new or adjusted allocation bases, shall be submitted to the Secretary no later than March 1 of each crop year.

(h) (1) Not more than 60 days after receipt of the Committee recommendations, the Secretary shall either approve said recommendations or make whatever alterations therein that he deems necessary in the public interest. In the event no such recommendations or listing of applications are received, the Secretary may issue adjustments in allocation bases each crop year. The decision of the Secretary shall be final; and he shall communicate his decision and the reasons therefor to the Committee in writing.

(2) Within 30 days after receipt of the Secretary's decision, the Committee shall notify each applicant of the Secretary's decision and of their allocation bases for the following crop year.

(i) The Committee shall, with the approval of the Secretary, establish rules, guides, bases, or standards to be used in determining allocation base awards or adjustments that are to be recommended to the Secretary taking into account, among other things, the minimum economic enterprise requirements for bentgrass production.

(j) Growers' allocation bases may be transferred to other growers as authorized by regulations recommended by the Committee and approved by the Secretary.

(k) Hardship determination in establishment of original allocation bases. Where allocation of a base involves a new owner, or a new lessee, if predecessor owner or lessee is abandoning or relinquishing his allocation base and allotment, and such relinquishing occurs during the interim between the period of the year for base determination for other established growers and the effective date of this order the successor grower may apply to the Committee for an allocation base determined by such history. In considering such applications the Committee shall take into account the extent of abandonment of allocation bases by such predecessor(s). Such determinations shall be subject to review and approval by the Secretary.

(l) The Committee shall check and determine the accuracy of the information submitted pursuant to this section and is authorized to make a thorough investigation of any application. Whenever the Committee finds an error, omission, or inaccuracy in any such application, it shall correct the same and shall give the grower who submitted the application a reasonable opportunity to discuss with the Committee the factors considered in making the correction. In the event the error, omission, or inaccuracy requires correction of an allocation base, the applicable allotment computed for the grower pursuant to § ____.42 shall be on the basis of the corrected allocation base. All allocation base applications, allocation bases assigned, and adjustments therein, shall be subject to review by the Secretary.

§ ____.42 Grower allotments.

(a) Prior to the beginning of each crop year but no later than March 1, the Committee shall apportion to each grower who has an allocation base for bentgrass an allotment of bentgrass which handlers may acquire from each grower during the crop year. Each such allotment shall be computed by dividing the total desirable quantity of bentgrass established pursuant to § ____.36 by the sum of the allocation bases of bentgrass for all growers and multiplying the grower's allocation base by the resulting percentage. The result shall be the grower's allotment of bentgrass. Except as otherwise provided, no handler may acquire any quantity of bentgrass (including bentgrass of his own production) which would result in all handlers having acquired a greater quantity of bentgrass with respect to such grower than the grower's applicable allotment. Each allotment shall be expressed in pounds of cleaned bentgrass.

(b) The Committee, with the approval of the Secretary, may establish by regulation such means of certification or identification with respect to allotments to growers as may be required to effectuate the purposes of any regulation issued under this order.

§ ____.43 Bentgrass harvested prior to effective date of this order.

Any person in the possession of bentgrass harvested prior to the effective date of this order or other later date as the Committee may determine, but not more than 90 days following the effective date of this order, shall be entitled, upon application to the Committee to have such bentgrass so designated, and upon so doing, the bentgrass may be certified for handling without regard to any allotment: *Provided*, That the amount certified for handling under this paragraph in any one crop year may be limited by the Committee to not less than 25 percent of the total amount originally so designated.

Grower contracts on proprietary varieties of bentgrass in effect as of the date of publication of the Secretary's recommended decision about this order, are exempt from the order for the life of such contracts, or for the ensuing four years, whichever period of time is shorter: *Provided*, That holders of the contracts present valid evidence thereof to the Committee within 60 days after the Committee begins to function. Contracts on proprietary varieties of bentgrass entered into after the date of publication of the recommended decision, shall not be exempt from this order.

§ ____.44 Foundation and registered bentgrass seed.

The handling of foundation and registered bentgrass seed shall be subject to this order.

§ ____.45 Disposition of excess bentgrass.

Bentgrass produced by a grower in excess of his annual allotment may be disposed of in accordance with such rules and regulations as the Committee, with the approval of the Secretary, may establish. Further, bentgrass in excess of a grower's allotment, may be released for marketing by the Committee, with the approval of the Secretary, for use by the grower, under the supervision of the Committee, (1) to fill a subsequent crop year's allotment pursuant to § ____.42; or (2) to fill an increased allotment established pursuant to § ____.42; or (3) to fill a deficit in the allotment of another grower who has made a bona fide effort to produce, harvest, and market bentgrass, but who produced less than his allotment.

INSPECTION AND IDENTIFICATION

§ ____.46 Quality regulation.

Subject to § ____.41 and § ____.42 all bentgrass seed shall meet regulations of Federal and State seed acts prior to sale. The Committee with the approval of the Secretary, may establish requirements which will prohibit the handling of bentgrass seed containing viable quack grass, wild garlic, wild onion seed, or any other

undesirable seed. No quality regulation requiring change in production practices shall become effective prior to at least two crop years following publication. No bentgrass shall be handled unless it meets the quality standards established under this order. The Committee shall have authority to regulate the size of a lot certificated by one certificate in order to control quality.

§ ____.47 Inspection.

No handler shall handle bentgrass unless prior to or upon handling, such seed has been inspected by such agencies as the Committee, with the approval of the Secretary, may designate and found to meet the requirements of the Committee as approved by the Secretary.

§ ____.48 Identification.

All bentgrass purchased from growers, or on their behalf, by handlers must be identified as eligible seed, under rules prescribed by the Committee, by stenciling each container with the designated grower number assigned by the Oregon Bentgrass Commission, or by the Committee. Adequate records shall be maintained by each handler of all transactions involving bentgrass seed.

§ ____.49 Minimum Quantity Exemption.

The Committee, with the approval of the Secretary may establish a minimum quantity of bentgrass which may be handled on behalf of any grower free from regulations issued pursuant to this order.

UNFAIR TRADE PRACTICES

§ ____.50 Authorization for Prohibition.

(a) Whenever the Secretary finds, upon recommendation of the Committee or other information that continuance of certain unfair practices in trade channels would tend to interfere with the achieving of the objectives of this order, he may prohibit such practices for any period or periods.

(b) Prior to any such practices being prohibited in any period, the Committee shall recommend, for the approval of the Secretary, such rules and procedures and such record keeping requirements as are necessary to administer these prohibitions and obtain compliance therewith.

EXPENSES AND ASSESSMENTS

§ ____.55 Expenses.

The Committee is authorized to incur such expenses, including maintenance of a reserve fund, as the Secretary finds are reasonable and likely to be incurred by the Committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions hereof. The funds to cover such expenses shall be paid to the Committee by handlers in the manner prescribed in § ____.56. For the purposes of this section and § ____.56 and § ____.57, the expenses and assessments shall cover the same periods as provided in § ____.29 (d) dealing with the budgets.

§ ____.56 Assessments.

(a) As his pro rata share of the expenses, including maintenance of a reserve fund, which the Secretary finds are reasonable and likely to be incurred by the Committee during a crop year, each handler shall pay to the Committee at the end of each month assessments on all bentgrass subject to this order which he handles as the first handler thereof during such period. The payment of assessments for the maintenance and functioning of the Committee may be required under this order throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the uniform rate of assessment to be paid by each handler during a crop year in an amount designed to secure sufficient funds to cover the expenses which may be incurred during such period and to accumulate and maintain a reserve fund not to exceed one crop year's expenses: *Provided*, That such rate of assessment, including any increase thereof, shall not exceed 1 cent per pound of cleaned bentgrass handled. At any time during or after the crop year, the Secretary, upon recommendation of the Committee, may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall apply to all bentgrass handled during the particular crop year. In order to provide funds for the administration of the provisions of this order during the first part of a crop year before sufficient operating income is available from assessments, the committee may accept the payment of assessments in advance and may also borrow money for such purposes.

§ ____.57 Accounting.

(a) If at the end of a crop year the assessments collected are in excess of expenses incurred, the Committee with the approval of the Secretary may carry over such excess into subsequent crop years as a reserve: *Provided*, That funds already in the reserve do not exceed approximately one crop year's expenses. Such reserve funds may be used (1) to cover any expenses authorized by this order and (2) to cover necessary expenses of liquidation in the event of termination of this order. If any such excess cess is not retained in a reserve, it shall be refunded proportionately to the handlers from whom assessments were collected. Upon termination of this order, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical such funds shall be returned pro rata to the handlers from whom such funds were collected.

(b) All funds received by the Committee pursuant to the provisions of this order shall be used solely for the purposes specified in this order and shall be accounted for in the manner provided in this order. The Secretary may at any time require the Committee and its members to account for all receipts and disbursements.

REPORTS AND RECORDS

§ ____.60 Reports.

(a) *Inventory.* Each handler shall file with the Committee a certified report showing such information as the Committee may specify with respect to any bentgrass held by him on such dates as the Committee may designate.

(b) *Receipts.* Each handler shall upon request of the Committee file with the Committee a certified report showing for each lot of bentgrass received or handled, the identifying marks, species, variety, weight, place of production, and the grower's name and address on such date(s) as the Committee may designate.

(c) *Other reports.* Upon the request of the Committee, with the approval of the Secretary, each handler shall furnish to the Committee such other information as may be necessary to enable it to exercise its powers and perform the duties under this order.

§ ____.61 Records.

Each handler shall maintain such records pertaining to all bentgrass acquired from, or handled on behalf of all growers as will substantiate the required reports and such others as may be prescribed by the Committee. All such records shall be maintained for not less than two years after the termination of the crop year to which such records relate.

§ ____.62 Verification of reports and records.

For the purpose of assuring compliance with record keeping requirements and verifying reports filed by handlers, the Secretary and the Committee through its duly authorized employees shall have access to any premises where applicable records are maintained, where bentgrass is received or held, and at any time during reasonable hours shall be permitted to inspect such handler premises and any and all records of such handlers with respect to matters within the purview of this order.

§ ____.63 Confidential information.

All reports and records furnished or submitted by growers and handlers to or obtained by the employees of the Committee which contain data or information constituting a trade secret or disclose the trade position, financial condition, or business operation of the particular grower or handler from whom received shall be treated as confidential, and the reports and all information obtained from records shall at all times be kept in the custody and under control of one or more employees of the Committee who shall not disclose such information to any member of the Committee nor to any person other than the Secretary.

MISCELLANEOUS PROVISIONS

§ ____.70 Compliance.

Except as provided in this order:

(a) No handler may handle bentgrass, the handling of which has been pro-

hibited under the provisions of this order, and no handler shall handle bentgrass except in conformity with the provisions of this order.

(b) No handler may purchase from or otherwise handle on behalf of a grower any amount of bentgrass that, together with all other marketings of such grower during the crop year, would exceed the allotment of such grower.

§ ____.71 Right of the Secretary.

The members of the Committee (including successors and alternates), and any agent or employee appointed or employed by the Committee, shall be subject on just cause to removal or suspension at any time by the Secretary. Each and every order, regulation, decision, determination or other act of said Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval the disapproved action of the said Committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ ____.72 Effective time.

The provisions of this order shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways specified in § ____.73.

§ ____.73 Termination or suspension.

(a) The Secretary shall, whenever he finds that any or all provisions of this order obstruct or do not tend to effectuate the declared policy of the Act, terminate or suspend the operation of this order or such provision thereof.

(b) The Secretary shall terminate the provisions of this order at the end of the then current crop year whenever he finds that such termination is favored by a majority of growers who, during a representative period determined by the Secretary, have been engaged in the production of bentgrass seed for market in the production area: *Provided*, That such majority have, during such representative period, produced for market more than 50 percent of the volume of such bentgrass seed produced or sold in the production area, but such termination shall be effective only if announced at least 30 days prior to the end of the then crop year.

(c) The provisions of this order shall, in any event, terminate whenever the provisions of the Act authorizing them cease to be in effect.

§ ____.74 Proceedings after termination.

(a) Upon the termination of the provisions of this order, the members of the Committee then functioning shall continue as joint trustees for the purpose of settling the affairs of the Committee by liquidating all funds and property then in the possession of or under their control, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the trustees.

(b) The trustees shall continue in such capacity until discharged by the Secretary and shall from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Committee and trustees, to such person as the Secretary may direct, and shall upon request of the Secretary, execute such assignments or other instruments necesasry or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Committee or the joint trustees pursuant to this order.

§ ____.75 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this order or any regulation issued pursuant hereto as the issuance of any amendments to either thereof shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this order or any regulation issued under this order, or (b) release or extinguish any violation of this order or of any regulation issued under this order or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ ____.76 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this order shall cease upon termination of this order, except with respect to acts done under and during the existence of this order.

§ ____.77 Agents.

The Secretary may by designation in writing name any person, including any officer or employee of the Government or any agency in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this order.

§ ____.78 Derogation.

Nothing contained in this order is or shall be construed to be in derogation or modification of the rights of the Secretary to exercise any powers granted by the Act or otherwise in accordance with such powers to act in the premises whenever such action is deemed advisable.

§ ____.79 Personal liability.

No member or alternate of the Committee nor any employee or agent thereof may be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent except for acts of dishonesty.

§ ____.80 Separability.

If any provision of this order is declared invalid, or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder of this order or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ ____.81 Amendments.

Amendments to this order may be proposed, from time to time, by the Committee or by the Secretary.

§ ____.82 Counterparts.

This agreement may be executed in multiple counterparts and, when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.[1]

§ ____.83 Additional parties.

After the effective date hereof, any handler who has not previously executed this agreement may become a party hereto if a counterpart hereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to show new contracting party.[1]

§ ____.84 Order with marketing agreement.

Each signatory handler favors and approves the issuance of an order by the Secretary regulating the handling of bentgrass in the same manner as is provided for in this agreement; and each signatory handler hereby requests the Secretary to issue, pursuant to the Act such an order.[1]

Copies of this notice may be procured from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington, D.C. 20250; or James W. Coddington, Grain Division, USDA, AMS, 6525 Belcrest Road, Hyattsville, Maryland 20782.

Signed at Washington, D.C. on May 20, 1974.

JOHN C. BLUM,
Associate Administrator.

[FR Doc.74-11928 Filed 5-22-74;8:45 am]

[7 CFR Part 927]

[Docket No. AO-99-A3]

CERTAIN VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON AND CALIFORNIA

Decision and Referendum Order Regarding Proposed Further Amendment of Marketing Agreement and Order

This decision and referendum order, issued pursuant to the rules of practice and procedure governing the proceedings to formulate marketing agreements and orders (7 CFR Part 900), relates to evidence presented at a public hearing in Portland, Oregon, on February 26, 1974.

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[1] Applicable only to the proposed marketing agreement.

after notice thereof published in the FEDERAL REGISTER (39 FR 5320) on proposals to amend the marketing agreement, as amended, and Order No. 927, as amended (7 CFR Part 927), regulating the handling of the above-named varieties of pears grown in Oregon, Washington, and California. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601–674).

On the basis of the evidence adduced at the hearing, and the record thereof, the recommended decision on this proceeding was filed with the Hearing Clerk, United States Department of Agriculture, on April 17, 1974. The notice of the filing of such recommended decision, affording opportunity to file written exceptions thereto, was published in the FEDERAL REGISTER (F.R. Doc. 74–9151; 39 FR 14213). None were filed.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision set forth in the FEDERAL REGISTER (FR Doc. 74–9151; 39 FR 14213) are hereby approved and adopted as the material issues, findings and conclusions, rulings, and general findings of this decision as published in full herein.

Materials issues. The material issues presented on the record were concerned with amending the order to:

(1) Revise the provisions which authorize marketing research and development projects to include authority for production research related to market quality factors;

(2) Authorize the issuance of container regulations; and

(3) Make conforming changes.

Findings and conclusions. The findings and conclusions on the material issues, all of which are based on the evidence adduced at the hearing and the record thereof, are as follows:

(1) The order presently contains authority for committee expenditures on marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of pears.

The order should be amended, as hereinafter set forth, to include authority for production research designed to assist, improve, or promote the marketing, distribution, and consumption of pears. The proposal to include production research, as published in the notice of hearing, indicated that the intent of the proposal was to provide for production research projects designed to assure "efficient production" in addition to those designed to assist, improve, or promote the marketing, distribution, and consumption of pears. However, the record evidence shows that the kind of production research for which authority is needed relates to problems affecting the marketing of the fruit. Such research would be concerned mainly, with orchard practices and procedures aimed at maintaining or improving market quality in marketing channels.

For several years, the committee has conducted marketing research projects aimed at maintaining or improving the market quality of pears so as to promote their marketing, distribution, and consumption. During such time, it has become obvious to those concerned that several quality lowering factors, or the susceptibility thereto, may originate in the production phase of operations. Thus far, the order has limited the committee's research to activities which take place beyond the farm gate such as sorting, packing, storage, and distribution of pears. Specific examples of quality problems that are believed to originate during production are cork spot, scald, shrivel, and decay. Other examples of production technology which may affect market quality include harvesting practices and the use of growth regulators, fertilizers, insecticides, and similar materials. In addition, new laws and regulations enacted for the protection of consumers and the environment may require research involving industry-wide cooperation to ascertain how best to conduct operations that will result in pears which comply with such regulations. The recommended authority would permit expansion of committee research activities to include areas of practice and procedure at the orchard level which affect the marketing, distribution, and consumption of pears to the end that more effective marketing may be achieved. Likewise, such authority would enable the committee to participate in the development of practices and procedures to meet the requirement of rules and regulations that are directed toward consumer and environmental protection, and have an impact on the production and distribution of pears.

The act provides that the expense of any research projects are to be paid from funds collected under the order. Therefore, for clarity the order should so specify as hereinafter set forth,

In formulating production research projects the committee should be authorized to secure the advice and service of persons knowledgeable in any segment of the research field. The committee should be authorized to establish subcommittees to assist it in the efficient and expeditious planning of production research projects or programs. Such committees could explore research methods, develop preliminary projects and programs, and make recommendations with respect to any such activities. Subcommittees could also perform evaluations of activities at any stage of completion. Final decisions on any such recommendation would be the prerogative of the committee subject to approval of the Secretary. In the conduct of any production research projects, the committee should be authorized to conduct the projects, or to contract for the conduct of such projects with persons or organizations that specialize in this field of activity.

In submitting projects to the Secretary for his approval, the committee should include recommendations as to the funds to be obtained from assessments under the order and its appraisal of the relative urgency of individual projects whenever several possibilities are involved. The committee should fully consider the cost of any such activities, when developing its budget, both as to additional items of expense and the applicable assessment rate. Committee expenditures for the costs of planning such research should be authorized on the basis of budgetary approval since planning and project development necessarily precede recommendation of a project to the Secretary for his approval. The committee should review its production research program annually to appraise its effectiveness. Copies of the annual report on the program should be provided to the Secretary and made available at the committee office for examination by producers, handlers, and other interested persons.

(2) The notice of hearing contained a proposal that the regulatory provisions of the order be amended to authorize the issuance of regulations that would fix the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging or handling of pears. The proponents of this proposal abandoned it at the hearing, and no evidence either in support or in opposition to it was presented. It is therefore concluded that the order should not be amended, at this time, to include authority for regulating containers of pears.

(3) No conforming changes are necessary.

Ruling on proposed findings and conclusions. March 22, 1974, was fixed as the latest date for the filing of briefs with respect to the facts presented in evidence at the hearing and on the findings and conclusions that should be drawn therefrom. No brief was filed.

General findings.

(1) The said order, as amended, and as hereby proposed to be further amended, and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order, as amended, and as hereby proposed to be further amended, regulates the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the States of Oregon, Washington, and California in the same manner as, and is applicable only to persons in the respective classes of commercial or industrial activity specified in, a proposed marketing agreement upon which hearings have been held;

(3) The said order, as amended, and as hereby proposed to be further amended, is limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act; and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act; and

(4) The said order, as amended, and as hereby proposed to be further amended, prescribes such different terms, applicable to different production and marketing areas, as are necessary to give

due recognition to differences in the production and marketing of such pears.

Further amendment of the amended marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau Varieties of Pears Grown in Oregon, Washington, and California" and "Order Amending the Order Regulating the Handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau Varieties of Pears Grown in Oregon, Washington, and California" which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Referendum order. Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), it is hereby directed that a referendum be conducted among the producers who, during the period July 1, 1973, through April 30, 1974 (which period is hereby determined to be a representative period for the purpose of such referendum), were engaged, in the States of Oregon, Washington, and California in the production for market of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears to ascertain whether such producers favor the issuance of said annexed order amending the order, as amended, regulating the handling of the aforesaid varieties of pears grown in the aforesaid area. Allan E. Henry and John E. Coop, Jr., Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, are hereby designated as agents of the Secretary of Agriculture, to conduct said referendum severally or jointly.

The procedure applicable to this referendum shall be the "Procedure for the Conduct of Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR Part 900.400 et seq.).

The ballots used in the referendum shall contain a summary describing the terms and conditions of the proposed amendatory order.

Copies of the aforesaid annexed order, of the aforesaid referendum procedure, and of this order may be examined in the office of the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250.

Ballots to be cast in the referendum, and other necessary forms and instructions, may be obtained from any referendum agent or appointee.

It is hereby ordered, That all of this decision and referendum order, except the annexed marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in said marketing order, as amended, and as further amended by the annexed order which will be published with this decision.

Dated: May 20, 1974.

RICHARD R. FELTNER,
Assistant Secretary.

ORDER[1] AMENDING THE ORDER, AS AMENDED, REGULATING THE HANDLING OF BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

§ 927.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of the order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held at Portland, Oregon, on February 26, 1974, upon proposed amendments to the marketing agreement, as amended, and Order No. 927, as amended (7 CFR Part 927), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order, as amended, and as hereby proposed to be amended, regulates the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the State of Oregon, Washington, and California in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreement upon which hearings have been held;

(3) The said order, as amended, and as hereby proposed to be amended, is limited in its application to the smallest regional production area that is practicable, consistent with carrying out the declared policy of the act; and the issuance of several orders applicable to subdivisions of such regional production area would not effectively carry out the declared policy of the act; and

(4) The said order, as amended, and as hereby proposed to be amended, prescribes such different terms, applicable to different production and marketing areas, as are necessary to give due recognition to differences in the production and marketing of such pears.

It is, therefore, ordered, That, on and after the effective date hereof, all handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the States of Oregon, Washington, and California shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended, and as hereby further amended as follows:

Section 927.47 is revised to read:

§ 927.47 Research and development.

The Control Committee, with the approval of the Secretary, may establish or provide for the establishment of production research or marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of pears. The expense of such projects shall be paid from funds collected pursuant to § 927.41.

[FR Doc.74–11925 Filed 5–22–74;8:45 am]

[7 CFR Part 1136]

[Docket No. AO–309–A20]

MILK IN THE GREAT BASIN MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Notice is hereby given of a public hearing to be held at the Bannock Hotel, 105 South Arthur, Pocatello, Idaho 83201, beginning at 10 a.m., local time, on June 11, 1974, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Great Basin marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

The proposal relative to a redefinition of the marketing area raises the issue whether the provisions of the present order would tend to effectuate the declared policy of the Act, if they are applied to the marketing area as proposed to be redefined and, if not, what modifications of the provisions of the order would be appropriate.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY UPPER SNAKE RIVER VALLEY DAIRYMEN'S ASSOCIATION, INC., MOUNTAIN EMPIRE DAIRYMEN'S ASSOCIATION, AND WESTERN GENERAL DAIRIES, INC.

PROPOSAL NO. 1

Amend § 1136.6 to add the Idaho Counties of:

Bannock	Franklin
Bear Lake	Jefferson
Bingham	Madison
Bonneville	

PROPOSAL NO. 2

Amend § 1136.53(a) to read as follows:

§ 1136.53 Location differentials to handlers.

(a) For milk which is received from producers at a pool plant or is diverted therefrom, or is delivered by a cooperative association pursuant to § 1136.9(c) to a pool plant and which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price computed pursuant to § 1136.50(a) shall be reduced pursuant to paragraph (1) and (2) of this section on the basis of the applicable rate per hundredweight for the location of such plant.

(1) Zone Rates.

Zone I. For plants located within 100 miles of the county courthouse in Provo, Utah and not in Zone II, III, or IV, no location adjustment.

Zone II. For plants located within the following counties; Utah Counties: Sevier, Grand, Piute, Beaver, Wayne, Cache and Uinath. Nevada Counties: Elko and Whitepine. Wyoming Counties: Uinta. $.10 location differential.

Zone III. For plants located within the following counties; Utah Counties: Iron, Garfield, and San Juan. Idaho Counties: Franklin, Oneida and Bear Lake. $.20 location differential.

Zone IV. For plants located within the following counties; Utah Counties: Kane and Washington. Idaho Counties: Bannock, Power, Bingham, Bonneville and Caribou. $.30 location differential.

(2) *Distance rates.* Plants located outside any of the zones specified in paragraph (a)(1) of this section shall have a location differential of $.10 per hundredweight, plus $.015 per hundredweight for each 10 miles or fraction thereof that such plant is situated more than 100 miles from the county courthouse in Provo, Utah.

* * * * *

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 3

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Earl C. Born, 4411 E. Kentucky Avenue, Denver, Colorado 80222 or from the Hearing Clerk, Room 112-A, Administration Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C. on May 17, 1974.

JOHN C. BLUM,
Associate Administrator.

[FR Doc.74-11874 Filed 5-22-74;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1500]

SELF-PRESSURIZED HOUSEHOLD SUBSTANCES CONTAINING VINYL CHLORIDE

Proposed Classification as a Banned Hazardous Substance

In response to recent information on the toxicity of vinyl chloride monomer and in response to a petition received on February 21, 1974, from the Health Research Group, Washington, D.C., the Consumer Product Safety Commission proposes to ban as a hazardous substance any self-pressurized product (aerosol product) for household use containing vinyl chloride monomer. By notice published May 9, 1974 (39 FR 16511), the Commission determined that consumer products containing vinyl chloride monomer as a propellant or ingredient are products which could create a substantial product hazard and required manufacturers of such products to submit certain information to CPSC.

Section 2(f)(1)(A) of the Federal Hazardous Substances Act (15 U.S.C. 1261(f)(1)(A)) defines "hazardous substance" as "any substance or mixture of substances which is toxic * * * if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children." Section 2(g) of the act states that "the term toxic shall apply to any substance * * * which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface." Section 2(q)(1)(B) of the act defines a "banned hazardous substance" as "any hazardous substance intended, or packaged in a form suitable, for use in the household, which the Secretary [now the Commission] by regulation classifies as a 'banned hazardous substance' on the basis of a finding that, notwithstanding such cautionary labeling as is or may be required under this Act for the substance, the degree or nature of hazard involved in the presence or use of such substance in households is such that the objective of the protection of the public health and safety can be adequately served only by keeping such substance, when so intended or packaged, out of the channels of interstate commerce."

The Commission has determined that reasonable grounds exist to propose the banning of self-pressurized products for household use containing vinyl chloride on the basis of toxicity. These grounds include the following:

(1) *Human data.* On January 22, 1974, the Occupational Safety and Health Administration was informed by the National Institute for Occupational Safety and Health (NISH) that the B. F. Goodrich Chemical Company reported that deaths of several of its employees from a rare form of liver cancer may have been occupationally related.

The employees of the B. F. Goodrich Chemical Company who died from angiosarcoma of the liver had an average exposure of approximately 19 years of vinyl chloride, at unknown concentrations, and variable exposures to other volatile chemicals. Some employees of Union Carbide Company and Goodyear Company are also reported to have had exposure to vinyl chloride and to have died from angiosarcoma of the liver. Finally, autopsies of four deceased employees revealed that liver angiosarcoma tumors were histologically indistinguishable from the angiosarcoma tumors observed in Professor Maltoni's experimental animals (see below).

(2) *Animal data.* Professor Cesare Maltoni, of the Instituto di Oncologia, Bologna, Italy, reported on a series of experiments on the effect of exposure of rats, mice, and hamsters to vinyl chloride at concentrations of 10,000; 6,000; 2,500; 500; 250; and 50 ppm for varying period of time. Some of the experiments have been concluded, and others are still ongoing. The experimental results so far reported are that tumors have been observed in groups of animals exposed to vinyl chloride at concentrations as low as 250 ppm.

These data are contained in the transcript of an "Informal Fact Finding Hearing on Possible Hazards of Vinyl Chloride Manufacture and Use," U.S. Department of Labor, Occupational Safety and Health Administration, February 15, 1974. A copy of this document is available for public inspection at the Office of the Secretary, 1750 K Street NW., Washington, D.C. 20207.

The Commission is in receipt of a petition from the Health Research Group, set forth below, "to immediately prohibit the continued use of vinyl chloride as a propellant for aerosolized consumer products and to remove all products containing vinyl chloride as a propellant from the market because there is substantial evidence that vinyl chloride is

carcinogenic." The petitioner cities a 1964 report that estimates that use of self-pressurized products containing vinyl chloride could result in exposure to a concentration of over 250 ppm.

The Commission is also aware that the Occupational Safety and Health Administration published in the FEDERAL REGISTER on April 5, 1974, an Emergency Temporary Standard for Exposure to Vinyl Chloride (39 FR 12342). This Emergency Standard sets an occupational exposure limit of 50 ppm of vinyl chloride in air. Further, the Occupational Safety and Health Administration on May 10, 1974 (39 FR 16896), proposed a standard for employee exposure at no detectable level. In addition, the Food and Drug Administration on April 22, 1974 (39 FR 14215), published a notice of proposed rule making for vinyl chloride as an ingredient of drug and cosmetic aerosol products. The Commissioner of FDA determined: (1) That vinyl chloride presents an unnecessary hazard to the public health when it is used as an ingredient in cosmetic aerosol products and that such use should be banned and (2) vinyl chloride, when used as an ingredient in drug aerosol products, is not generally recognized as safe and effective, and requires an approved new drug application as a condition of marketing. In the same notice, FDA requested a recall of all drug and cosmetic aerosol products containing vinyl chloride.

Further, on April 26, 1974 (39 FR 14753), the Environmental Protection Agency published an emergency suspension order concerning registration for pesticide spray products containing vinyl chloride and an intent to cancel registrations. In the publication, EPA announced preliminary results of experiments at Industrial Bio-Test Laboratories which indicate that angiosarcoma was observed in mice exposed to vinyl chloride concentrations as low as 50 ppm. EPA also announced an agency calculation showing that under reasonable conditions of use of self-pressurized products, the level of exposure might be as high as 400 ppm.

On the basis of the information referred to above, the Commission has determined that inhalation of vinyl chloride may be hazardous and that any use of a self-pressurized product exposes the consumer to inhalation of some of its contents. Therefore, the Commission has reason to believe that precautionary labeling would be insufficient to protect the public health and safety if self-pressurized household products containing vinyl chloride entered the channels of interstate commerce.

Therefore, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2 (f)(1)(A), (q), (3)(a), 74 Stat. 372, 374, as amended 80 Stat. 1304–05; 15 U.S.C. 1261 (f)(1)(A), (q), 1262(a)) and the Federal Food, Drug, and Cosmetic Act (sec. 701 (e), (f), (g), 52 Stat. 1055–56, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 371 (e), (f), (g), and under authority vested in the Commission by the Consumer Product Safety Act (sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission proposes to amend 16 CFR Part 1500 by adding a new paragraph (a)(10) to sec. 1500.17 as follows:

§ 1500.17 Banned hazardous substances.

(a) Under the authority of section 2(q)(1)(B) of the act, the Commission declares as banned hazardous substances the following articles because they possess such a degree or nature of hazard that adequate cautionary labeling cannot be written and the public health and safety can be served only by keeping such articles out of interstate commerce:

* * * * *

(10) Self-pressurized products intended or suitable for household use that contain vinyl chloride monomer.

Interested persons are invited to submit, on or before June 24, 1974, written comments regarding this proposal. Comments and any accompanying material should be submitted, preferably in 5 copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, tenth floor, 1750 K Street NW., Washington, D.C., during working hours Monday through Friday.

Dated: May 20, 1974.

SADYE DUNN,
Secretary, Consumer Product Safety Commission.

The Health Research Group petition reads as follows:

BEFORE THE CONSUMER PRODUCT SAFETY COMMISSION

HEALTH RESEARCH GROUP, PETITIONER

To: Richard Simpson, Chairman, Consumer Product Safety Commission.

Petition To Immediately Prohibit the Continued use of Vinyl Chloride as a Propellant for Aerosolized Consumer Products and To Remove all Products Containing Vinyl Chloride as a Propellant From the Market Because There Is Substantial Evidence That Vinyl Chloride Is Carcinogenic

I. Petitioner. Petitioner Health Research Group is a non-profit organization engaged in public interest research on health issues, including consumer product safety. It is funded by Public Citizen, many of whose members use aerosolized consumer products.

II. Authority for Petition and Regulation. Petitioner's authority to petition for rulemaking is the Administrative Procedure Act, 5 U.S.C. 553(e). The authority of the Consumer Product Safety Commission to promulgate this rule is 15 U.S.C. (The Federal Hazardous Substances Act), § 1261(q)(2), 1262, 1263, and 1265.

III. Summary of Reasons for This Petition. Vinyl chloride is a toxic substance known to be commonly used as a propellant in aerosolized products. No regulations currently prohibit such use of vinyl chloride.

Vinyl chloride monomer is a colorless gas which can cause acute toxicity manifested by dizziness, headache, disorientation, and unconsciousness at high concentrations. It has been linked to osteolytic (bone destructive) lesions of the hands, liver disease, and liver cancer in workers engaged in the polymerisation of polyvinyl chloride from vinyl chloride monomer. In one study of industrial workers exposed to vinyl chloride 30% were found to have liver enlargement.

At exposure levels as low as 250 ppm, vinyl chloride has produced liver cancer in rats. Of greatest significance, since 1964 five workers engaged in making polyvinyl chloride from vinyl monomer at one plant have died from a rare and invariably fatal form of cancer of the liver. The most recent death was December 19, 1973. This cancer has recently been diagnosed in a sixth worker in the same plant.

IV. The Use or Presence of Vinyl Chloride in Consumer Products. Vinyl chloride is among the most often-used propellants in aerosols. (*Postgraduate Medicine*, p. 65; *Report of the Committee on Aerosol Toxicity*, p. 19; *Aerosol Age*, p. 47.) A 1964 report estimated that an aerosol product sprayed in a tiny room of 282.5 cubic feet for 30 seconds would result in 0.025% vinyl chloride by volume. (*Aerosol Age*, p. 47.) This level would correspond to over 250 ppm vinyl chloride in the air of a room that size,[1] not unlike the size of many bathrooms in small apartments.

V. Prior Regulatory Actions on Vinyl Chloride—1971. In 1971 under Section 6(a) of the Occupational Safety and Health Act of 1970, the Department of Labor adopted as a Federal standard a ceiling level of 500 ppm (1300 mg/m³) for occupational exposure to vinyl chloride, based on the recommendations of the American Conference of Governmental Industrial Hygienists (ACGIH), (FEDERAL REGISTER of May 29, 1971). The ACGIH has since recommended 200 parts per million as a revised voluntary ceiling value for occupational exposure to the chemical. (*Documentation of Threshold Limit Values*, p. 477).

1973. On May 15, 1973, the Food and Drug Administration published a notice of proposed rule-making for the "prior-sanctioned polyvinyl chloride resin." The notice proposed that the resin not be used as a component of food packaging material for use in contact with alcoholic foods, since both industry and FDA laboratory analyses had found that the vinyl chloride monomer migrates to alcohol from PVC bottles used to package distilled spirits and wine. Analytical results from industry confirmed that levels of up to 20 ppm of vinyl chloride were found to have migrated to the alcohol from the container after it had been stored for up to one year. The FDA concluded: "Vinyl chloride monomer as such is a poisonous and deleterious substance. FDA knows of no studies which establish a safe level of consumption when this monomer is leached from containers into alcoholic foods." (FEDERAL REGISTER of May 15, 1973).

1973. A July 13, 1973, FDA notice in the FEDERAL REGISTER extended the time for filing comments on the FDA proposal for restrictions on polyvinyl chloride packaging, at the request of the plastics industry. The notice stated that the Bureau of Alcohol, Tobacco and Firearms of the Treasury Department (which had first authorized experimental use of PVC bottles for liquor in November, 1968) had terminated the use of PVC containers for alcoholic beverages pending final action by the FDA on the proposal. As of this date (2/21/74) the Food and Drug Administration has not finalized its proposal of May 17, 1973.

1974. In direct response to the deaths from a rare form of liver cancer of four workers at

[1] Using *Aerosol Age's* reference that 16.5% by volume corresponds to 460 g. vinyl chloride/M³, and a conversion factor of 500 ppm=1300 mg/M³ (ACGIH.)

one polyvinyl chloride plant, the Department of Labor published on January 30, 1974, a request for information and a notice of a fact-finding hearing on the possible hazards associated with the maufacture and/or use of vinyl chloride (FEDERAL REGISTER January 30, 1974). At the hearing held on February 15, 1974, the Industrial Union Department of the AFL–CIO petitioned for an emergency temporary standard to prevent any worker exposure to vinyl chloride.

VI. *The Grave Danger Resulting from Exposure to Vinyl Chloride—A. Acute Effects.* Vinyl chloride is a gas which can cause unconsciousness at extremely high concentrations. Inhalation of a 2.5% concentration of vinyl chloride can cause dizziness, disorientation and headache (ILO, p. 1466). At an 8–12% concentration cardiac arrythmias have been observed in experimental dogs (ACGIH, p. 477). The Committee on Aerosol Toxicity has voiced concern over the use of certain gases—including vinyl chloride—as components of propellant/solvent systems in aerosols because they are capable of producing "cardiac sensitization" (Committee Report, p. 19).

B. Evidence of Carcinogenicity. On January 22, 1974, the B. F. Goodrich Company announced that three—and it is now known five—of its Louisville, Kentucky, vinyl-chloride workers had died of angiosarcoma (or hemangioendothelioma) of the liver, an exceedingly rare form of liver cancer. The five deaths occurred between 1964 and 1973, with the time of development of liver cancer after the onset of exposure to vinyl chloride in the four workers for whom this information is known from 14 to 27 years.

The National Institute for Occupational Safety and Health, estimating that only twenty to thirty people die in the United States every year from this particular type of cancer, has announced the discovery of a new occupational cancer associated with the polymerization of polyvinyl chloride from vinyl chloride, with vinyl chloride as the chief causative suspect (Statement of Dr. Marcus Key, February 1, 1974). The disease is invariably fatal, once cancer has been initiated (Statement of Dr. Irving Selikoff, February 15, 1974).

The carcinogenic effects of exposure to vinyl chloride have been demonstrated by Viola and Maltoni, in separate experiments. Viola produced angiosarcomas of the liver in rats when exposed to 30,000 ppm for 4 hours/day, 5 days/week, for 12 months (Viola, p. 20). Maltoni has produced the same type of cancers when exposing rats to much lower doses (Statement of Prof. Cesare Maltoni, February 15, 1974). After 127 weeks of exposure to vinyl chloride (4 hours/day; 5 days a week, by inhalation), Maltoni reported liver tumors in Sprague-Dawley rats at exposures as low as 250 ppm. (See table below).

RESULTS OF MALTONI'S EXPERIMENTAL STUDY

Exposure level—vinyl chloride, by inhalation	Number of animals exposed	Number of animals developing liver angiosarcomas
10,000 ppm	69	6
6,000 ppm	72	11
2,500 ppm	74	9
500 ppm	67	7
250 ppm	67	2
50 ppm	64	0

Dr. Maltoni reported that he is currently conducting an experiment using 300 rats exposed to 50 ppm, since the failure of the low dose of vinyl chloride to induce cancer may be a function of the small number of animals tested.

In addition, Maltoni has observed two fibrosing angiosarcomas in the offspring of pregnant rats exposed to vinyl chloride. He stated that such fibrosing angiosarcomas have never been observed as occurring spontaneously in Sprague-Dawley rats.

C. Other Evidence of Liver Disease. As early as 1961 Torkelson et al. reported that abnormal histologic changes were noted in the livers of rabbits after repeated exposures to 200 ppm of vinyl chloride. Slight liver enlargement was noted at doses as low as 100 ppm (Torkelson et al.).

A 1967 French study of 168 workers engaged in the production of PVC found liver enlargement in 30% of the cases studied (Suciu et al.).

A later report of the health experience of Dow Chemical's vinyl chloride workers revealed no overt illness, but did determine that certain blood tests of liver function (e.g. beta liproprotein, the icterus index, and bromosulfalein retention time) were abnormally altered. On the basis of their findings, the authors concluded that some degree of liver dysfunction might result from a TLV for vinyl chloride of 300 ppm (Mutchler et al.).

Marstellar et al. reported within the past few months that 19 out of 20 workers who had been exposed to vinyl chloride for 1½ to 21 years at a PVC producing plant in Germany had some type of liver disease, including gross changes of the liver and spleen. Direct inspection of the liver and spleen (by surgical operation) showed disease to be present in 14 out of the 20 workers (Marstellar et al.).

D. Evidence of Other Chronic Effects. In October 1963 osteolytic lesions were first observed in two Belgian plastics workers who were also suffering from Raynaud's phenomenon due to constriction of the local blood vessels in their hands (ILO, p. 1466). This hand syndrome—termed acroosteolysis—has since been observed in over 30 workers in the United States employed in the manufacture of PVC resins (Wilson et al.).

VII. Relief Requested. We request that the Chairman of the Consumer Product Safety Commission declare aerosolized consumer products containing vinyl chloride to be "banned hazardous substances," under the definition of 15 U.S.C. § 1261(q)(1) and under the authority granted the Chairman in § 1262. Moreover, under the authority of § 1265, the Chairman is requested to remove from sale such consumer products containing vinyl chloride as propellants and to prohibit the introduction of such aerosolized products containing vinyl chloride into interstate commerce.

The chronic toxicity and evidence of carcinogenicity of vinyl chloride monomer for humans has been documented by scientific studies and clinical reports. Further use of vinyle chloride monomer as a propellant for aerosolized consumer products must be prohibited since there is no evidence that human beings can safely be exposed to the chemical.

Dated: Washington, D.C., February 21, 1974.

Respectfully submitted,
ANDREA M. HRICKO.

SIDNEY M. WOLFE, M.D.,
2000 P. Street, N.W. #708
Washington, D.C. 20036.

REFERENCES

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[FR Doc.74-11936 Filed 5-22-74;8:45 am]

notices

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

DEPARTMENT OF DEFENSE

Defense Civil Preparedness Agency

DCPA ADVISORY COMMITTEE ON THE DESIGN AND CONSTRUCTION OF SHELTERS

Notice of Meeting

Notice is hereby given, pursuant to Public Law 92–463, that a meeting of the DCPA Advisory Committee on the Design and Construction of Shelters will be held during the hours of 9 a.m. to 5 p.m. on Wednesday, June 12, 1974 at the Defense Civil Preparedness Headquarters, Pentagon, Room 3E333.

The meeting is being held to obtain the Committee's recommendations and advice on the Defense Civil Preparedness Agency's redirected programs.

Further, the meeting will be open to the public and members of the public will be accommodated on a first-come, first-served basis. Any person may file with the Committee a written statement concerning the matters to be discussed.

Anyone desiring further information concerning this meeting or who wishes to file a statement may contact Mr. James E. Roembke, Defense Civil Preparedness Agency, Commonwealth Building, 1300 Wilson Blvd., Arlington, VA 22209, telephone 694–1672.

Dated: May 16, 1974.

JOHN E. DAVIS,
Director.

[FR Doc.74–11887 Filed 5–22–74;8:45 am]

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Notice of Meeting

MAY 15, 1974.

The USAF Scientific Advisory Board Geophysics Panel Task Group on Meteorological Effects on Microwave Propagation will hold a closed meeting on June 5, 1974, from 9 a.m. until 4:30 p.m., at the Stanford Research Institute, Menlo Park, California.

The Task Group will conduct a classified working session to review and revise the first draft of their report.

For further information, please contact the Scientific Advisory Board Secretariat at 202–697–8404.

STANLEY L. ROBERTS,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.74–11767 Filed 5–22–74;8:45 am]

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, effective January 5, 1973, notice is hereby given that closed meetings of the DIA Scientific Advisory Committee will be held at the Pentagon, Washington, D.C. on:

Tuesday, 4 June 1974
Friday, 7 June 1974
Friday, 14 June 1974

These meetings commencing at 9 a.m. will be to discuss classified matters.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

MAY 17, 1974.

[FR Doc.74–11805 Filed 5–22–74;8:45 am]

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, effective January 5, 1973, notice is hereby given that meetings of the Department of Defense Wage Committee will be held on:

Tuesday, June 4, 1974
Tuesday, June 11, 1974
Tuesday, June 18, 1974
Tuesday, June 25, 1974

These meetings will convene at 9:45 a.m. and will be held in Room 1E–801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and make recommendations to the Assistant Secretary of Defense (Manpower and Reserve Affairs) on all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Public Law 92–392.

At these scheduled meetings, the Committee will consider wage survey specifications, wage survey data, local reports and recommendations, statistical analyses and proposed pay schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92–463 and 5 U.S.C. 532 (b) and (4), the Assistant Secretary of Defense (Manpower and Reserve Affairs) has determined that these meetings will be closed to the public.

However, members of the public who may wish to do so, are invited to submit material in writing to the Chairman concerning matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Chairman, Department of Defense Wage Committee, Room 3D–281, The Pentagon, Washington, D.C.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

MAY 17, 1974.

[FR Doc.74–11806 Filed 5–22–74;8:45 am]

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

NATIONAL CRIME INFORMATION CENTER ADVISORY POLICY BOARD

Notice of Meeting

The National Crime Information Center Advisory Policy Board will meet on June 3, 4, and 5, 1974, at the Royal Sonesta Hotel in New Orleans, Louisiana. On June 3, the meeting will begin at 11 a.m. and conclude at 4:15 p.m. and on June 4 and 5, it will begin at 9:30 a.m. and conclude at 5 p.m.

The purpose of this meeting will be to review the minutes of the previous meeting, to consider suggestions concerning NCIC and discuss matters presented as new business.

The meeting will be open to the public. Persons who wish to make statements and ask questions of the Board members, must file written statements or questions at least twenty-four hours prior to the opening of each meeting. These statements or questions shall be delivered to the person of the Designated Federal Employee or the Assistant Director, Computer Systems Division of the FBI.

The NCIC Advisory Policy Board is constituted according to Public Law 92–463 and its membership is composed of criminal justice representatives from throughout the United States.

Further information may be obtained from Mr. Norman F. Stultz, Section Chief, Computer Systems Division, FBIHQ, Washington, D.C.

Minutes of the meeting will be available upon request from the above-designated FBI Official.

CLARENCE M. KELLEY,
Director.

[FR Doc.74–11886 Filed 5–22–74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Group 615]

CALIFORNIA

Notice of Filing of Plat of Survey

MAY 16, 1974.

1. A plat of survey of the following described land, accepted April 29, 1974, will be officially filed in the California State Office, Sacramento, California, effective at 10:00 a.m. on July 1, 1974:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 22 S., R. 32 E.,
Sec. 29, Lots 2, 3, 4, 5, 7, 8, 9 and 10.

The area described totals 364.69 acres.

The plat represents a dependent resurvey of a portion of the subdivisional lines and completion survey and subdivision of section 29, T. 22 S., R. 32 E., Mount Diablo Meridian, California.

2. The survey was executed at the request of the Forest Service to accommodate a land exchange, S–2489.

3. The above described lands are within the Sequoia National Forest and are therefore not subject to disposition under the public land laws generally by reason of the official filing of the plat of survey. The lands have been and still are subject to the operation of the mining and mineral leasing laws, except for Lots 7 and 10, which are segregated from the operation of the mining laws by virtue of the aforementioned exchange application.

ELEANOR K. WILKINSON,
Chief, Branch of Records and Data Management.

[FR Doc.74–11794 Filed 5–22–74;8:45 am]

[NM Misc. 23]

NEW MEXICO

Order Opening Lands to Entry

MAY 15, 1974.

1. In an exchange of lands made under the provisions of Section 8 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315g), the following described lands have been reconveyed to the United States:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 25 N., R. 11 E.,
Sec. 11, SE¼;
Sec. 14, NE¼;
Sec. 23, NW¼;
Sec. 26, W½;
Sec. 27, SE¼.
T. 29 N., R. 12 E.,
Sec. 10, NE¼SW¼ and NW¼SE¼.
T. 19 S., R. 3 W.,
Sec. 18, lots 1, 2 (less 6.7 acres) 3 and 4;
Sec. 19, lot 1.
T. 19 S., R. 4 W.,
Sec. 10, NE¼SE¼;
Sec. 11, E½NW¼, SW¼NW¼ and NW¼SW¼;
Sec. 13, E½E½, W½NE¼, E½NW¼ and NW¼NW¼;
Sec. 14, N½NE¼, SE¼NE¼, NE¼NW¼ and NE¼SE¼;
Sec. 15, S½SW¼;
Sec. 21, NE¼, N½SE¼ and SW¼SE¼;
Sec. 22, W½NE¼, NW¼, NW¼SW¼, N½SE¼ and SW¼SE¼;
Sec. 23, N½SW¼ and SE¼;
Sec. 24, NE¼NE¼, SW¼ and NW¼SE¼;
Sec. 25, W½;
Sec. 26, E½, NW¼ and S½SW¼;
Sec. 27, W½NE¼, SE¼NE¼, E½SW¼, SW¼SW¼ and N½SE¼;
Sec. 28, S½NE¼, W½ and SE¼;
Sec. 33, N½NW¼ and SW¼NW¼.

The areas described aggregate approximately 4,077.32 acres of land in Taos and Dona Ana Counties.

2. The topography of the lands located in Taos County are mainly flat with elevations ranging from 7200 to 7499 feet. Vegetation consists of sagebrush, rabbitbrush, snakeweed and sparse blue grama. The soils are moderately deep to shallow sandy and silt loams. The lands in Dona Ana County are rough and broken to moderately rolling to steeply sloping and dissected by many intermittent stream channels. The soils are gravelly loam underlain by caliche or reddish brown clay loams. The vegetation consists of mesquite, yucca, snakeweed, black grama, mesa dropseed, fluff grass and various species of cacti.

3. Subject to valid existing rights, the provisions of existing withdrawals and requirements of applicable law, the lands described above are hereby open to petition-application, location and selection. All valid applications received at or prior to 10 a.m. on June 24, 1974, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to Chief, Division of Technical Services, Bureau of Land Management, Santa Fe, NM 87501.

MICHAEL T. SOLAN,
Chief, Division of Technical Services.

[FR Doc.74–11793 Filed 5–22–74;8:45 am]

CHIEF, BRANCH OF LANDS AND MINERALS OPERATIONS, CALIFORNIA

Redelegation of Authority

1. Pursuant to the authority contained in section 1.1 of BLM Order No. 701 (29 FR 10526, July 29, 1964) as amended, the following authority is hereby delegated to the Chief, Branch of Lands and Minerals Operations in the Division of Technical Services to take action for the State Director in matters listed under section 1.6(n) geothermal resources leases. Take actions on matters involving geothermal resources leases pursuant to the Act of December 24, 1970 (84 Stat. 1566; 30 U.S.C. 1001–1025) and 43 CFR Part 3200. This authority does not include (1) functions pertaining to geothermal deposits that involve approval or execution of unit or cooperative agreements, communitization agreements, operating, drilling or development contracts and (2) functions relating to the grant, approval or termination of the waiver, suspension or reduction of royalty, or the suspension of operations or production under a lease.

2. The authority delegated in paragraph 1 above may not be redelegated but may be exercised by any person authorized as an "Acting" Branch Chief.

3. This delegation becomes effective immediately upon publication in the FEDERAL REGISTER.

JAMES B. RUCH,
Acting State Director.

Approved: May 16, 1974.

GEORGE L. TURCOTT,
Associate Director.

[FR Doc.74–11766 Filed 5–22–74;8:45 am]

[NM 20263]

NEW MEXICO

Notice of Application

MAY 17, 1974.

Notice is hereby given, that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (41 Stat. 449; 30 U.S.C. 185) the K. B. Engineering Company has applied for a 7-inch natural gas pipeline and nitrogen rejection plant site right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 15 S., R. 29 E.,
Sec. 12, SW¼NE¼, E½SW¼ and NW¼SE¼;
Sec. 13, E½W½ and NW¼NW¼;
Sec. 21, SE¼NE¼;
Sec. 22, SW¼NW¼, NW¼SW¼ and S½S½;
Sec. 23, SE¼NE¼, SW¼SW¼ and N½S½;
Sec. 24, N½NE¼, NE¼NW¼ and S½NW¼;
Sec. 27, NW¼NW¼;
Sec. 28, NE¼NE¼, S½NE¼, NE¼SW¼, S½SW¼ and NW¼SE¼;
Sec. 33, NW¼NW¼.
T. 16 S., R. 29 E.,
Sec. 3, lots 1, 2, 6, 7, 11, 12, 13, 14 and NW¼SW¼;
Sec. 4, N.¼SE¼ and S½SE¼;
Sec. 8, NE¼SE¼ and S½SE¼;
Sec. 9, N½NE¼, NE¼NW¼, S½NW¼ and NW¼SW¼.

The 50-foot-wide pipeline will convey high nitrogen gas across approximately 11.372 miles of national resource lands in Chaves and Eddy counties to a nitrogen rejection plant site containing 0.224 acres of national resource land in Eddy County, New Mexico.

The purpose of this notice is to allow the public an opportunity to comment upon the filing of the above right-of-way application.

Interested persons desiring to express their views, should promptly send their name and address to the District Manager, Bureau of Land Management, 1717 West Second Street (P.O. Box 1397), Roswell, N.M. 88201.

STELLA V. GONZALES,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.74–11803 Filed 5–22–74;8:45 am]

SALEM DISTRICT ADVISORY BOARD

Notice of Field Tour

Notice is hereby given that the Salem District Advisory Board will conduct a

field tour starting at 10:15 a.m. on June 18, 1974. The tour group will meet at the Bureau of Land Management Walter Horning Tree Seed Orchard located in Section 13, T. 4 S., R. 3 E., W.M., Oregon, about 14 miles northeasterly from the town of Molalla, Oregon.

The purpose of the tour is to view and discuss operations of the Walter Horning Tree Seed Orchard in producing containerized tree seedlings and genetically superior tree seeds.

The tour will be open to the public. In addition to discussion of the agenda topic by board members, there will be time for brief statements by non-members. Persons wishing to make oral statements should so advise the chairman or co-chairman prior to the tour, to aid in scheduling the time available. Any interested person may file a written statement for consideration by the board by sending it to the chairman, in care of the co-chairman: Salem District Manager, P.O. Box 3227, Salem, OR 97302.

B. T. VLADIMIROFF,
Salem District Manager.

MAY 15, 1974.

[FR Doc.74-11800 Filed 5-22-74;8:45 am]

STATE DIRECTOR, ALASKA SUPPLEMENT

Delegation of Authority Regarding Contracts and Leases

MAY 17, 1974.

State Director, Alaska supplement to Bureau of Land Management Manual 1510.

A. Pursuant to delegation of authority contained in Bureau Manual 1510-0332, and 38 FB No. 185, dated September 25, 1973, the Chief Branch of Procurement and Property Management, Fairbanks District Office, is authorized:

1. To enter into contracts with established sources for supplies and services, regardless of amount;

2. To enter into contracts on the open market for supplies and services, not to exceed $2,500 per transaction ($2,000 for construction), provided that the requirement is not available from established sources. (Sec. 302(c)(3) of the FPAS Act);

3. To enter into contracts in an unlimited amount for necessary procurements in the case of emergency fire suppression work for the rental of equipment and aircraft and for the purchase of supplies and services required in such operations. (Section 302(c)(2) of the FPAS Act).

RICHARD H. LEDOSQUET,
District Manager.

[FR Doc.74-11888 Filed 5-22-74;8:45 am]

Office of Hearings and Appeals

[Docket No. M 74-112]

BARNES & TUCKER CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), Barnes & Tucker Company has filed a petition to modify the application of 30 CFR 75.303 to its Lancashire No. 20 Mine located near Carrolltown, Cambria County, Pennsylvania.

30 CFR 75.303 reads in pertinent part as follows:

Within 3 hours immediately preceding the beginning of any shift, and before any miner in such shift enters the active workings of a coal mine, certified persons designated by the operator of the mine shall examine such workings and any other underground area of the mine designated by the Secretary or his authorized representative. Each such examiner shall examine every working section in such workings and shall make tests in each such working section for accumulations of methane with means approved by the Secretary for detecting methane, and shall make tests for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary; examine seals and doors to determine whether they are functioning properly; examine and test the roof, face, and rib conditions in such working section; examine active roadways, travelways, and belt conveyors on which men are carried, approaches to abandoned areas, and accessible falls in such section for hazards; test by means of an anemometer or other device approved by the Secretary to determine whether the air in each split is traveling in its proper course and in normal volume and velocity; and examine for such other hazards and violations of the mandatory health or safety standards, as an authorized representative of the Secretary may from time to time require. In support of its petition, Petitioner states:

(1) The specific request which Petitioner makes in its petition is for permission to use qualified, competent employees, rather than certified employees as is required under Title 30, Code of Federal Regulations, § 75.303, for haulage examinations. The reason for the Company's requested variance is that employees with certification by the Commonwealth of Pennsylvania are not available at the Company's Lancashire No. 20 Mine.

(2) Petitioner feels that this request for variance of § 75.303 will not compromise the safety of the employees in any way.

(3) Petitioner has one state certified person and two qualified and competent persons performing this belt examination at the present time. The qualified and competent employees have eight years and 31 years of experience respectively. They have performed many duties required of coal miners and have state certified machine operator certificates. They have been qualified under U.S. Bureau of Mines requirements in first-aid methods, principles of mine rescue, oxygen deficiency and methane detecting devices, safe use and care of flame safety lamp, use of self-rescuers, Coal Mine Health and Safety Act of 1969, coal mine ventilation requirements, roof and rib control. They also have been instructed in the locations and use of fire fighting equipment, locations of escapeways, exits, and routes of travel, evacuation procedures and fire drills.

(4) Petitioner has attempted in every way possible to fill this position. It has advertised in the local newspapers. It has offered training. It has attempted to encourage employees from the rank and file by offering better employment, wages and benefits but present employees are reluctant to leave the United Mine Workers of America for what has traditionally been considered a supervisory job.

(5) Petitioner will require a sufficient number of employees to perform the required duties of haulage examiner and the job bidding procedure of the United Mine Workers contract will have to be followed. When this job is posted for bid, Petitioner will require no less than five years of experience as a miner or man of general work. Furthermore, all the necessary required training by the U.S. Bureau of Mines as set forth in Item 3 will be complied with.

(6) If the requested variance which Petitioner seeks is granted, it will be necessary for Petitioner to use competent, qualified employees for haulage examination until such time as these employees are able to become certified by state examination. Petitioner will require such employees to attend Pennsylvania State University extension courses in mining.

(7) Petitioner presently has two employees who have state certification, but these two employees will not accept the position of a haulage examiner.

(8) Each day the pre-shift examination will be made by a state certified mining examiner who also possesses certification as a first grade assistant mine foreman.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 24, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director,
Office of Hearings and Appeals.

MAY 14, 1974.

[FR Doc.74-11776 Filed 5-22-74;8:45 am]

[Docket No. M 74-109]

BERGOO COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), Bergoo Coal Company has filed a petition to modify the application of 30 CFR 77.1605(k) to its No. 5 Mine located at Bergoo, West Virginia.

30 CFR 77.1605(k) provides as follows:

Berms or guards shall be provided on the outer bank of elevated roadways.

In support of its petition, Petitioner states that the subject haulage road is approximately five miles in length. Said road is used by mine personnel travelling to and from their work at the mine. Two trucks hauling coal utilize the road once or twice a week.

Petitioner states further that its haulage road, which has natural guards in some areas, varies in width from fourteen to sixty feet.

As an alternative to the application of the mandatory safety standard, Petitioner proposes that it install guards along narrow and dangerous areas. In addition, Petitioner proposes to inform its drivers to use the outer portion of the

roadway when operating unloaded vehicles and to use the inner portion when operating loaded vehicles.

The proposed alternate will at all times guarantee no less than the same measure of protection afforded by the application of the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 24, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director,
Office of Hearings and Appeals.

MAY 14, 1974.

[FR Doc.74-11779 Filed 5-22-74;8:45 am]

[Docket No. M 74-122]

FLORENCE MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), The Florence Mining Company has filed a petition to modify the application of 30 CFR 75.303(a) to its Florence Nos. 1 and 2 Mines and its Dias Mine located at Armagh, Huff, and Armagh, Pennsylvania, respectively.

30 CFR 75.303(a) provides in pertinent part as follows:

Within 3 hours immediately preceding the beginning of any shift, and before any miner in such shift enters the active workings of a coal mine, certified persons designated by the operator of the mine shall examine such workings and any other underground area of the mine designated by the Secretary or his authorized representative. Each such examiner shall examine every working section in such workings and shall make tests in each such working section for accumulations of methane with means approved by the Secretary for detecting methane, and shall make tests for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary; examine seals and doors to determine whether they are functioning properly; examine and test the roof, face, and rib conditions in such working section; examine active roadways, travelways, and belt conveyors on which men are carried, approaches to abandoned areas, and accessible falls in such section for hazards; test by means of an anemometer or other device approved by the Secretary to determine whether the air in each split is traveling in its proper course and in normal volume and velocity; and examine for such other hazards and violations of the mandatory health or safety standards, as an authorized representative of the Secretary may from time to time require. * * *

Petitioner proposes an alternative method of performing the tests and examinations of coal-carrying belt conveyors which will permit certified personnel to remain in their respective working sections and will guarantee no less than the same measure of protection afforded the miners in Petitioner's mines by the application of that part of section 303(d)(1) of the Act pertaining to belt conveyors on which coal is carried.

The alternative method proposed by Petitioner is as follows:

1. Section or butt belts will be examined by a certified person after each coal producing shift has begun.

2. Mine line and flat belts will be examined by a certified person once during each 24-hour production period.

3. During any 8 hour production period that the main line and flat belts are not examined by a certified person, such belts will be examined by a "competent" person.

4. Petitioner further proposes that the qualifications of this "competent" person will be:

(a) An experienced person who possesses both a State certificate as a "miner" and a State certificate as a "mining machine operator" or "shot-firer";

(b) A person who is qualified to test for methane and for oxygen deficiency, pursuant to the terms of 30 CFR 75.151, 75.152;

(c) A person who had been trained specifically in proper belt examinations by a certified person;

(d) A person who is trained and retrained, in accordance with the provisions of 30 CFR 75.160 pertaining to certified persons.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 24, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director,
Office of Hearings and Appeals.

MAY 13, 1974.

[FR Doc.74-11778 Filed 5-22-74;8:45 am]

[Docket No. M 74-124]

HELEN MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), The Helen Mining Company has filed a petition to modify the application of 30 CFR 75.303(a) to its Homer City Mine located at Homer City, Pennsylvania.

30 CFR 75.303(a) provides in pertinent part as follows:

Within 3 hours immediately preceding the beginning of any shift, and before any miner in such shift enters the active workings of a coal mine, certified persons designated by the operator of the mine shall examine such workings and any other underground area of the mine designated by the Secretary or his authorized representative. Each such examiner shall examine every working section in such workings and shall make tests in each such working section for accumulations of methane with means approved by the Secretary for detecting methane, and shall make tests for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary; examine seals and doors to determine whether they are functioning properly; examine and test the roof, face, and rib conditions in such working section; examine active roadways, travelways, and belt conveyors on which men are carried, approaches to abandoned areas, and accessible falls in such section for hazards; test by means of an anemometer or other device approved by the Secretary to determine whether the air in each split is traveling in its proper course and in normal volume and velocity; and examine for such other hazards and violations of the mandatory health or safety standards, as an authorized representative of the Secretary may from time to time require. * * *

Petitioner proposes an alternative method of performing the tests and examinations of coal-carrying belt conveyors which will permit certified personnel to remain in their respective working sections and will guarantee no less than the same measure of protection afforded the miners in Petitioner's mines by the application of that part of section 303(d)(1) of the Act pertaining to belt conveyors on which coal is carried.

The alternative method proposed by Petitioner is as follows:

1. Section or butt belts will be examined by a certified person after each coal producing shift has begun.

2. Mine line and flat belts will be examined by a certified person once during each 24-hour production period.

3. During any 8 hour production period that the main line and flat belts are not examined by a certified person, such belts will be examined by a "competent" person.

4. Petitioner further proposes that the qualifications of this "competent" person will be:

(a) An experienced person who possesses both a State certificate as a "miner" and a State certificate as a "mining machine operator" or "short-firer";

(b) A person who is qualified to test for methane and for oxygen deficiency, pursuant to the terms of 30 CFR 75.151, 75.152;

(c) A person who had been trained specifically in proper belt examinations by a certified person;

(d) A person who is trained and retrained, in accordance with the provisions of 30 CFR 75.160 pertaining to certified persons.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 24, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director,
Office of Hearings and Appeals.

MAY 14, 1974.

[FR Doc.11773 Filed 5-22-74;8:45 am]

[Docket No. M 74-123]

NORTH AMERICAN COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), North American Coal Corporation has filed a petition to modify the application of 30 CFR 75.303(a) to its Conemaugh No. 1 and Aulds Run No. 2 Mines located in Somerset County and Indiana County, Pennsylvania respectively.

30 CFR 75.303(a) provides in pertinent part as follows:

Within 3 hours immediately preceding the beginning of any shift, and before any miner in such shift enters the active workings of a coal mine, certified persons designated by the operator of the mine shall examine such workings and any other underground area of the mine designated by the Secretary or his authorized representative. Each such examiner shall examine every working section in such workings and shall make tests in each such working section for accumulations of methane with means approved by the Secretary for detecting methane, and shall make tests for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary; examine seals and doors to determine whether they are functioning properly; examine and test the roof, face, and rib conditions in such working section; examine active roadways, travelways, and belt conveyors on which men are carried, approaches to abandoned areas, and accessible falls in such section for hazards; test by means of an anemometer or other device approved by the Secretary to determine whether the air in each split is traveling in its proper course and in normal volume and velocity; and examine for such other hazards and violations of the mandatory health or safety standards, as an authorized representative of the Secretary may from time to time require. * * *

Petitioner proposes an alternative method of performing the tests and examinations of coal-carrying belt conveyors which will permit certified personnel to remain in their respective working sections and will guarantee no less than the same measure of protection afforded the miners in Petitioner's mines by the application of that part of section 303(d)(1) of the Act pertaining to belt conveyors on which coal is carried.

The alternative method proposed by Petitioner is as follows:

1. Section or butt belts will be examined by a certified person after each coal producing shift has begun.

2. Mine line and flat belts will be examined by a certified person once during each 24-hour production period.

3. During any 8-hour production period that the main line and flat belts are not examined by a certified person, such belts will be examined by a "competent" person.

4. Petitioner further proposes that the qualifications of this "competent" person will be:

(a) An experienced person who possesses both a State certificate as a "miner" and a State certificate as a "mining machine operator" or "shot-firer";

(b) A person who is qualified to test for methane and for oxygen deficiency, pursuant to the terms of 30 CFR 75.151, 75.152;

(c) A person who had been trained specifically in proper belt examinations by a certified person;

(d) A person who is trained and retrained, in accordance with the provisions of 30 CFR 75.160 pertaining to certified persons.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 24, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson, Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director,
Office of Hearings and Appeals.

MAY 14, 1974.

[FR Doc.74-11774 Filed 5-22-74;8:45 am]

[Docket No. M 74-125]

ONEIDA MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), The Oneida Mining Company has filed a petition to modify the application of 30 CFR 75.303(a) to its Oneida No. 4 Mine located at Seward, Pennsylvania.

30 CFR 75.303(a) provides in pertinent part as follows:

Within 3 hours immediately preceding the beginning of any shift, and before any miner in such shift enters the active workings of a coal mine, certified persons designated by the operator of the mine shall examine such workings and any other underground area of the mine designated by the Secretary or his authorized representative. Each such examiner shall examine every working section in such workings and shall make tests in each such working section for accumulations of methane with means approved by the Secretary for detecting methane, and shall make tests for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary; examine seals and doors to determine whether they are functioning properly; examine and test the roof, face, and rib conditions in such working section; examine active roadways, travelways, and belt conveyors on which men are carried, approaches to abandoned areas, and accessible falls in such section for hazards; test by means of an anemometer or other device approved by the Secretary to determine whether the air in each split is traveling in its proper course and in normal volume and velocity; and examine for such other hazards and violations of the mandatory health or safety standards, as an authorized representative of the Secretary may from time to time require. * * *

Petitioner proposes an alternative method of performing the tests and examinations of coal-carrying belt conveyors which will permit certified personnel to remain in their respective working sections and will guarantee no less than the same measure of protection afforded the miners in Petitioner's mines by the application of that part of section 303(d)(1) of the Act pertaining to belt conveyors on which coal is carried.

The alternative method proposed by Petitioner is as follows:

1. Section or butt belts will be examined by a certified person after each coal producing shift has begun.

2. Mine line and flat belts will be examined by a certified person once during each 24-hour production period.

3. During any 8-hour production period that the main line and flat belts are not examined by a certified person, such belts will be examined by a "competent" person.

4. Petitioner further proposes that the qualifications of this "competent" person will be:

(a) An experienced person who possesses both a State certificate as a "miner" and a State certificate as a "mining machine operator" or "shot-firer";

(b) A person who is qualified to test for methane and for oxygen deficiency, pursuant to the terms of 30 CFR 75.151, 75.152;

(c) A person who had been trained specifically in proper belt examinations by a certified person;

(d) A person who is trained and retrained, in accordance with the provisions of 30 CFR 75.160 pertaining to certified persons.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 24, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director,
Office of Hearings and Appeals.

MAY 14, 1974.

[FR Doc.74-11772 Filed 5-22-74;8:45 am]

[Docket No. M 74-90]

RAY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), Ray Coal Company has filed a petition to modify the application of 30 CFR 77.1605(k) to its No. 3 Mine located at Hazard, Kentucky.

30 CFR 77.1605(k) provides as follows:

Berms or guards shall be provided on the outer bank of elevated roadways.

In support of its petition, Petitioner states:

(1) The grading, surfacing and drainage on haulage roads maintained by Petitioner compare favorably with the conditions on nearby state-maintained roads.

(2) Soil berms would not provide reliable protection in an emergency. In lieu of the berms, Petitioner proposes to maintain adequate percentage of grade, width, elevation of curves, surfacing and drainage and crosstilling to make the haulage roads safe and usable.

(3) Installation of berms or guards would necessarily reduce the width of the haulage roads thereby making passing more hazardous.

(4) Installation of berms or guards would require blasting and sloping of the highwall thereby adding expense to, and interrupting production in, Petitioner's operation. These alterations would also increase soil erosion and cause additional silt and spoil to accumulate in the drainage ditches thereby hampering drainage.

(5) Petitioner asserts that its haulage roads in their present condition are as safe as they would be if the mandatory safety standard were applied.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 24, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director,
Office of Hearings and Appeals.

MAY 14, 1974.

[FR Doc.74-11780 Filed 5-22-74;8:45 am]

[Docket No. M 74-120]

VALLEY CAMP COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), The Valley Camp Coal Company has filed a petition to modify the application of 30 CFR 75.402 to its Mine No. 3 located near Triadelphia, Ohio County, West Virginia.

30 CFR 75.402 provides:

All underground areas of a coal mine, except those areas in which the dust is too wet or too high in incombustible content to propagate an explosion, shall be rock dusted to within 40 feet of all working faces, unless such areas are inaccessible or unsafe to enter or unless the Secretary or his authorized representative permits an exception upon his finding that such exception will not pose a hazard to the miners. All crosscuts that are less than 40 feet from a working face shall also be rock dusted.

In support of its petition, Petitioner states the following:

1. In the operation of the subject mine, Petitioner uses the "short-wall" system of mining involving self-advancing hydraulic roof support jacks in lieu of conventional roof support methods.

2. An integral part of Petitioner's operation is the No. 35Y Lee-Norse continuous mining machine. The No. 35Y Lee-Norse is used to make a cut 5 feet high and 9 feet wide in the block of coal being mined. This cut is driven parallel to the line of automatic roof supports. The coal that is cut is loaded directly into the shuttle cars and then onto a conveyor belt in an entry which is parallel to the cut being made by the No. 35Y Lee-Norse. The No. 35Y Lee-Norse takes a cut 100 feet in length and then backs up and repeats the procedure. On the average one (1) to two (2) cuts 100 feet in length are made on each shift.

3. Petitioner classifies the entire area in front of and along the side, opposite the roof support system, of the No. 35Y Lee-Norse as the working face, and, therefore, no rock-dust should be applied in said areas.

4. The authorized representative of the Secretary has classified only the area immediately in front of the No. 35Y Lee-Norse as the working face, and has provided information that he would enforce the requirement of 30 CFR 75.402 in the area along the side of the No. 35Y Lee-Norse. Further, the authorized representative of the Secretary has provided information indicating that he would require rock-dusting of said area along the side of the No. 35Y Lee-Norse to within 40 feet of the working face as described in the quoted safety standard.

5. The authorized representative of the Secretary has provided an interpretation of the "working face" in the short-wall system of mining which is incorrect, and, therefore, any enforcement act under 30 CFR 75.402 would be improper.

6. Under the current conditions in the No. 3 Mine the ventilation system is of excellent quality and more than sufficient to adequately dilute and render harmless and carry away flammable, explosive, noxious and harmful gas and dust.

7. The short-wall mining system is acknowledged to be superior in terms of dust control and ventilation to any other existing mining method. Because of the proper protection afforded a miner working in a section utilizing the short-wall system, the potential hazard of explosion is greatly minimized. The superior clean up procedure, the superior ventilation system, together with the use of trickle-dusters renders the use of rock dust unnecessary. The short-wall mining system guarantees no less than the same measure of protection afforded the miners that would be the case if the authorized representative of the Secretary's interpretation were enforced.

8. In fact, the increased necessity of rock-dust in the described area would increase the risk of hazard to the health and safety of the miners and would, therefore, result in a diminution of general safety conditions at said mine.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 24, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director,
Office of Hearings and Appeals.

MAY 13, 1974.

[FR Doc.74-11777 Filed 5-22-74;8:45 am]

[Docket No. M74-121]

VALLEY CAMP COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) 1970, the Valley Camp Coal Company has filed a petition to modify the application of 30 CFR 75.1405 to its Alexander Mine located in Moundsville, Marshall County, West Virginia.

30 CFR 75.1405 provides:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

In support of its petition, Petitioner states:

1. That there are located in the subject mine approximately 350 haulage cars that would be required to have installed automatic couplers. That the cost of replacing this haulage equipment in order to conform with the appropriate safety standard now in effect would be $1,390,000.00. That upon extensive investigation there can be no modification of the existing haulage equipment to accommodate the application of automatic couplers.

2. That there are currently in active use 275 cars at the subject mine and the occasion of coupling and uncoupling the cars occurs at infrequent and irregular intervals, to the extent that the requirement of equipping these cars with automatic coupling may not apply for the requirement of equipping these cars with automatic coupling applies only to haulage cars which are regularly coupled and uncoupled.

3. That the history of the subject mine does not disclose that any injuries have been sustained at this mine due to the lack of automatic coupling, indicating that these haulage cars are safe as presently equipped.

4. That the expected life of this mine as of the date of this petition is December 1976, and unless additional reserves are acquired, this mine will cease active operation. That due to the potentially limited life expectancy of the mine, the capital expenditure of equipping each haulage car with automatic coupling is prohibitive and could cause an earlier cessation of active operation at this mine if this standard were not modified to accommodate the condition currently existing. That the use of the haulage cars,

if in fact each were equipped with automatic coupling, would be restricted exclusively to the subject mine and there would be no interchange of equipment available with the other mines operated by Petitioner in that the size of the haulage cars and the track gauge at the subject mine is different from that in the other mines operated by Petitioner. That, therefore, these haulage cars which would be equipped with automatic couplers at a cost of $1,390,000.00, would have no value to Petitioner, other than salvage, if the subject mine ceased active operation.

5. That negotiations are currently being conducted for the acquisition of other reserves which may extend the life of this mine. These negotiations are extremely confidential and the current expected life of this mine cannot be divulged without jeopardizing the bargaining position of Petitioner in these negotiations. In the event that other reserves are acquired, this mine will be completely modernized and the necessity for the continuing the modification of 30 CFR 75.1405 will no longer exist and Petitioner will, as soon as is practicable, acquire haulage equipment to comply with this safety standard.

6. That if Petitioner is permitted to continue using the haulage cars which are now in operation, and these cars are equipped with sufficient safety devices to avoid injury, then the current method will at all times guarantee no less than the same measure of protection afforded the miners of such mine by compliance with 30 CFR 75.1405.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 24, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director,
Office of Hearings and Appeals.

MAY 14, 1974.

[FR Doc.74-11775 Filed 5-22-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

GRAIN STANDARDS

Texas Grain Inspection Point

Statement of considerations. The Plainview Grain Inspection and Weighing Service, Inc., Plainview, Texas, is designated to operate as an official inspection agency in accordance with the provisions of section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)).

Plainview Grain Inspection and Weighing Service, Inc., plans to locate one or more of its licensed grain inspectors at Hereford, Texas, and has requested that its assignment be amended in accordance with section 26.99(b) of the regulations (7 CFR 26.99(b)) to add Hereford, Texas, as a designated inspection point. By definition, a designated inspection point is a city, town, or other location assigned under the regulations to an official inspection agency for the conduct of official inspections, and within which the official inspection agency or one or more of its licensed inspectors is located (7 CFR 26.1(b)(13)).

Notice is hereby given that the Agricultural Marketing Service has under consideration the proposed requests from the Plainview Grain Inspection and Weighing Service, Inc., to amend the assignment of the Plainview Grain Inspection and Weighing Service, Inc., to add Hereford, Texas, as a designated inspection point under the U.S. Grain Standards Act.

Opportunity is hereby afforded all interested persons to submit written views and comments with respect to this matter to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All material submitted should be in duplicate and mailed to the Hearing Clerk not later than June 22, 1974. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Hearing Clerk and to all other information available to the U.S. Department of Agriculture before final determination is made with respect to this matter.

Done in Washington, D.C. on: May 17, 1974.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.74-11873 Filed 5-22-74;8:45 am]

Forest Service

NORTHEASTERN FORESTRY RESEARCH ADVISORY COMMITTEE

Notice of Meeting

The Northeastern Forestry Research Advisory Committee will meet 8:30 a.m.–5 p.m., June 20; 8:30 a.m.–12:00 noon, June 21, at the Kinzua Inn, Warren, Pa.

The purpose of this meeting is to review the forest research program of the Warren Laboratory of the Northeastern Forest Experiment Station, U.S. Forest Service.

The meeting will be open to the public. Persons who wish to attend should notify Dr. W. T. Doolittle, Northeastern Forest Experiment Station, U.S. Forest Service, 6816 Market Street, Upper Darby, Pa. 19082; Telephone No. 215–597–3715. Written statements may be filed with the committee after the meeting.

Dated: May 20, 1974.

W. T. DOOLITTLE,
Director.

[FR Doc.74-11802 Filed 5-22-74;8:45 am]

SAN ISABEL NATIONAL FOREST GRAZING ADVISORY BOARD

Notice of Meeting

The San Isabel National Forest Grazing Advisory Board will meet at 1:30 p.m. on June 21, 1974, at the Forest Supervisor's Office, 910 Highway 50 West, Pueblo, Colorado.

The purpose of this meeting is to discuss the status of range management policies on the Forest.

This meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor's Office, P.O. Box 5808, Pueblo, Colorado 81002, (303 544–5277, ext. 321. Written statements may be filed with the board before or after the meeting.

The board has no established rules for public participation.

RANDALL R. HALL,
Acting Forest Supervisor.

MAY 17, 1974.

[FR Doc.74-11884 Filed 5-22-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

BOWDOIN COLLEGE, ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before June 12, 1974.

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

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

Docket Number: 74-00427-33-46070. Applicant: Bowdoin College, Brunswick, Maine 04011. Article: Scanning Electron Microscope, Model SSM-2A. Manufacturer: Hitachi, Japan. Intended use of article: The article is intended to be used for scanning electron microscopic examination of membranes from animals and humans with muscular dystrophy in efforts to discover the primary cause of dystrophy and to find methods for diagnosis and identification of the carrier state. The article will also be used by

undergraduate research students and students taking courses in cell biology. Application received by commissioner of customs: April 16, 1974.

Docket Number: 74–00429–33–46040. Applicant: University of Florida, Dept. of Materials Science & Engineering, Gainesville, Florida 32611. Article: Electron Miscroscope, Model EM 301. Manufacturer: Philips Electronic Instrument, The Netherlands. Intended use of article: The article is intended to be used for studies of metals and alloys, glasses, ceramics, semi-conductors, minerals, organic solids, particulate matter, and replicas. Experiments to be conducted include: (A) Determining the crystal structure and composition of precipitate particles less than 0.3 μm in diameter. (B) Using computer simulation methods to precisely match strain fields of dislocations, voids, grain boundaries, small precipitates, and interfaces between phases with and without solute segregation. (C) Studying the crystallization of amorphous films produced by sputtering and evaporation using small angle scattering, microdiffraction and electron energy analysis. (D) Studying the interface between bioceramics implants and animal tissue by direct resolution, composition analysis and micro diffraction. (E) Investigating the degree of solute segregation at crystal defects and boundaries in silicon and other semiconductor materials by micro X-ray analysis and strain contrast. (F) Many other similar studies where a precise description of local structure and composition are required.

The article will also be used for educational purposes to train metallurgists, ceramists, materials scientists, and others (e.g. chemists, biologists, etc.) in the use and interpretation of information from electron microscopes for use in product development, failure analysis, and research on solids. Application received by Commissioner of Customs: April 25, 1974.

Docket Number: 74–00430–33–66700. Applicant: CMDNJ-Rutgers Medical School, Department of Pathology, P.O. Box 101, Piscataway, N.J. 08854. Article: Weibel Projection Unit for Stereology. Manufacturer: Anatomisches Institut, Switzerland. Intended use of article: The article is intended to be used to make measurements of surface and area of structures identified in electron micrographs during quantitative electron microscopic study of kidney tissue. The article will also be used for graduate student study of anatomy and pathology. Application received by Commissioner of Customs: April 22, 1974.

Docket Number: 74–00431–33–46500. Applicant: Veterans Administration Hospital, Neurology Service (180), Tremont Avenue, East Orange, New Jersey 07019. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in an experiment designed to investigate the nature of certain virus-like particles recently reported by several groups of investigators to occur in areas of tissue breakdown in multiple sclerosis, and also to define the earliest ultrastructural changes in this disease. Application received by Commissioner of Customs: April 25, 1974.

Docket Number: 74–00432–33–46500. Applicant: University of South Florida Medical School, 4202 Fowler Avenue, Tampa, Florida 33620. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of tissues from organs of experimental animals, human autopsy or surgical material exhibiting normal and pathologic structure. Experiments will consist of the examination of tissues or organs from different disease states (cancer, inflammation, degeneration, etc.) from experimental animals undergoing nutritional deficiency disturbances, tumorigenesis with chemical carcinogens, and experimentally induced infections such as fungus infections, etc. Application received by Commissioner of Customs: April 25, 1974.

Docket Number: 74–00436–90–57300. Applicant: New England Document Conservation Center, 800 Massachusetts Avenue, North Andover, Massachusetts 01845. Article: Recurator, Paper Restoring Machine; Manufacturer: Yissum Research Development Co. of the Hebrew University of Jerusalem, Israel. Intended use of article: The article is intended to be used in the restoration of deteriorated paper in rare books and manuscripts in research and academic libraries. All characteristics of hand made rag paper will be studied. The article will also be used in the training of conservators in revolutionary new paper restoring techniques. Application received by Commissioner of Customs: March 20, 1974.

Docket Number: 74–00437–90–42600. Applicant: National Aeronautics and Space Administration, Langley Research Center (MS 146), Hampton, Virginia 23665. Article: Alphanumeric Display Device Made from a Two-Color-Monolithic Array of Light-Emitting Diodes. Manufacturer: Bowmar Canada Limited, Canada. Intended use of article: The article is intended to be used for studies of electroluminescence in gallium phosphide. Application received by commissioner of customs: April 29, 1974.

Docket Number: 74–00438–98–74600. Applicant: Colorado State University, Department of Physics, College Avenue, Fort Collins, Colorado 80521. Article: 1 "Malvern" High Speed Digital Correlator, Type K7023 and accessories. Manufacturer: Precision Devices and Systems Ltd., United Kingdom. Intended use of article: The article is intended to be used to determine and analyze the correlation spectrum of the laser light scattered from the turbulent flow (either laboratory flow or the real atmospheric flow) of either clear air or disturbed air which is under investigation. Application received by commissioner of customs: April 26, 1974.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.74–11795 Filed 5–22–74;8:45 am]

HEALTH RESEARCH, INC.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74–00277–00–41200. Applicant: Health Research, Inc., Roswell Park Division, 666 Elm Street, Buffalo, New York 14203. Article: Two (2) Reflex Klystrons, Model VRE 2120A. Manufacturer: Varian Associates, Canada. Intended use of article: The articles are replacements for klystron tubes used in microwave generators that are part of an Electron Spin Resonance Spectrometer used in the studies of Radiation Damage Mechanisms in connection with cancer research. Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to a compatible component for an instrument in the possession of the applicant institution. We find that the compatibility of the article is pertinent to the applicant's use in cancer research studies. The Department of Health, Education, and Welfare advised in its memorandum dated April 22, 1974 that it knows of no domestic component of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no similar component being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.74–11796 Filed 5–22–74;8:45 am]

UNIVERSITY OF WASHINGTON

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 73–00425–55–54100. Applicant: University of Washington Oceanography Department, CU Project 14, Seattle, Wash. 98195. Article, Batfish model 3000, guideline CTD system, Model 8103. Manufacturer: Hermes Electronics, Ltd., Canada. Intended use of Article: The article is intended to be used for the study of the spatial and temporal variations of ecological parameters, such as nutrients, in the coastal upwelling systems in the ocean adjacent to various countries in the world.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a system composed of two compatible components, a towed, depth-controllable underwater vehicle and an insrtument package for measuring salinity, temperature and depth. This system provides capabilities for operation at selected depths, including continuously varying depths over the range from zero to 100 meters. The National Bureau of Standards (NBS) advised in its memorandum dated February 25, 1974 that the characteristics of the article described above are pertinent to the applicant's intended purposes. NBS also advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.74–11797 Filed 5–22–74;8:45 am]

National Oceanic and Atmospheric Administration

GEODETIC CONTROL SURVEYS

Availability of Classification, Standards of Accuracy, and General Specifications

A modernized and revised (February 1974) "Classification, Standards of Accuracy, and General Specifications of Geodetic Control Surveys" has been prepared by the Federal Geodetic Control Committee and approved by the Office of Management and Budget. Review and coordination was solicited and received from the American Congress on Surveying and Mapping, the American Geophysical Union, the American Society of Civil Engineers, and selected academic and professional specialists.

"Classification, Standards of Accuracy, and General Specifications of Geodetic Control Surveys" describes the National Geodetic Control Networks in sufficient detail to meet the needs of state and local governments and engineers and scientists engaged in surveying, mapping, and charting for the development and conservation of the resources of the United States. Surveys to be assimilated into the national networks must comply with the methodology and qualitative standards established in this pamphlet. All geodetic and precise engineering surveys should adhere to the standards and should be referenced to the National Networks.

This basic reference redefines horizontal control and establishes new requirements for vertical control. It contains basic specifications which will enable the surveyor to ascertain the quality of his work. The pamphlet has been printed and distributed by the National Oceanic and Atmospheric Administration, National Geodetic Survey Information Center (C18), 6001 Executive Boulevard, Rockville, Maryland 20852, and is available on request to that Administration.

This basic reference supersedes a similar publication of March 1, 1957.

T. P. GLEITER,
Assistant Administrator for Administration.

MAY 17, 1974.

[FR Doc.74–11770 Filed 5–22–74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

OCCUPATIONAL EXPOSURE TO FIBROUS GLASS

Notice of Symposium

On January 3, 1974, notice was published in the FEDERAL REGISTER (39 FR 840) of intent to convene a national symposium on fibrous glass for the purpose of providing a forum for scientific discussion of the identified gaps in knowledge regarding the health effects of prolonged exposure to fibrous glass.

Accordingly, notice is hereby given by the National Institute for Occupational Safety and Health (NIOSH) that the Symposium on Occupational Exposure to Fibrous Glass will commence on June 26, 1974, beginning with registration at 8:00 a.m., and end at 5:30 p.m. on June 27, 1974, in the University of Maryland Center of Adult Education Building, College Park, Maryland.

Formal presentations are by invitation only. However, all interested parties are invited to attend. Sufficient time will be allowed following each group of papers for discussion when questions and comments will be invited from the floor.

The seating capacity of the auditorium to be used for the symposium limits attendance to a maximum of 750 persons. Reservations will therefore be accepted on a first-come, first-served basis.

Additional information, including registration details, may be obtained from Mrs. Susan Stob, Conference Coordinator, Conferences and Institutes Division, University College, University of Maryland, College Park, Maryland 20742; Area Code (301) 454–5237.

Dated: May 15, 1974.

MARCUS M. KEY,
Director, National Institute for Occupational Safety and Health.

[FR Doc.74–11792 Filed 5–22–74;8:45 am]

Food and Drug Administration

[GRASP MF–3569]

HOFFMAN-TAFF, INC.

Notice of Filing of Petition for Affirmation of Gras Status

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1786; 21 U.S.C. 321(s), 348, 371(a)) and the regulations for affirmation of GRAS status (21 CFR 121.40), published in the FEDERAL REGISTER of December 2, 1972 (37 FR 25705), notice is given that a petition (GRASP MF–3569) has been filed by Hoffman-Taff, Inc., and placed on public display at the office of the Hearing Clerk, Food and Drug Administration, proposing affirmation that choline stearate used as a source of nutritional choline in livestock and poultry feeds for fortification purposes is generally recognized as safe (GRAS).

Interested persons may, on or before July 22, 1974, review the petition and/or file comments (preferably in quintuplicate) with the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852. Comments should include any available information that would be helpful in determining whether the substance is, or is not, generally recognized as safe. A copy of the petition and received comments may be seen in the office of the Hearing Clerk, address given above, during working hours, Monday through Friday.

Dated: May 16, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–11876 Filed 5–22–74;8:45 am]

[DESI 8867; Docket No. FDC–D–256; NDA No. 11–565]

RAUWOLFIA SERPENTINA AND RAUWOLFIA ALKALOIDS: SYROSINGOPINE TABLETS

Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

The National Academy of Sciences-National Research Council, Drug Efficacy

Study Group evaluated the effectiveness of the drug product described below, found the drug to be less than effective, and submitted its report to the Commissioner of Food and Drugs. Copies of that report have previously been made publicly available and are on display at the office of the Food and Drug Administration's Hearing Clerk. After reviewing the Academy's report and the available data and information, the Commissioner concluded that the drug is less than effective and published his conclusion in the FEDERAL REGISTER of April 28, 1971 (36 FR 7984) that the drug is possibly effective for the various labeled indications:

NDA 11-565; Singoserp Tablets containing syrosingopine; Ciba Pharmaceutical Co., Division Ciba-Geigy Corp., 556 Morris Avenue, Summit, N.J. 07901.

In response to the notice, Ciba submitted a report of six (6) studies designed to investigate the efficacy of Singoserp Tablets as an antihypertensive agent. The submission was reviewed by the Director of the Bureau of Drugs who has concluded that they fail to demonstrate significant antihypertensive effects for Singoserp Tablets as compared to placebo. By letter of March 15, 1973, the Bureau of Drugs informed Ciba of these findings and invited Ciba to combine the results of the studies and reanalyze the pooled data. On July 9, 1973, the Food and Drug Administration received Ciba's rereview and reanalysis of the previously submitted studies. The Director, Bureau of Drugs has evaluated the reanalyzed data and, for the following reasons, has concluded that it also fails to establish significant antihypertensive effects for Singoserp.

Ciba's reanalysis is patently defective because it has arbitrarily excluded the results of one of the studies (Atkins). Not only did this study contain the largest number of patients (⅓ of the total patient population using the test drug and placebo), but it also showed an extremely favorable response to placebo treatment compared to treatment with Singoserp. It is obvious therefore that exclusion of the results of the Atkins study from the pooled analysis distorts any conclusions reached. Ciba submitted no adequate justification for excluding the results of the Atkins study.

Ciba attempted to demonstrate the efficacy of Singoserp by comparing the mean reductions of blood pressures for Singoserp and placebo treatment groups. Using this method of analysis, the pooled results (excluding the Atkins study) show that diastolic blood pressure was reduced, on the average, only 2.15 mm. Hg more with Singoserp than with a placebo. If the results of the Atkins study are included, as they must be, diastolic blood pressure was reduced, on the average, only 1.26 mm. Hg more with Singoserp than with placebo. Whichever figure is used (2.15 or 1.26 mm. Hg), it is obvious that the results are infinitesimal and clinically insignificant.

Moreover, Ciba has admitted that the reanalyzed data, even excluding the Atkins study, fail to show a statistically significant difference in satisfactory response (defined by Ciba as a reduction of blood pressure by 20% or more and/or a fall of diastolic blood pressure to 90 mm. Hg or less) between Singoserp and placebo. Thus even if Ciba could justify excluding the Atkins study results, its data would still fail to support the efficacy of Singoserp as compared to a placebo by its own criteria.

On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug.

Therefore, notice is given to the holder(s) of the new drug application(s) and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) (or if indicated above, those parts of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (HFD-300), 5600 Fishers Lane, Rockville, MD 20852.

In addition to the ground(s) for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in § 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR 310, 314), the applicant(s) and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

If an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before June 24, 1974, a written notice of appearance and request for hearing, and (2) on or before July 22, 1974, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 130.14 as published and discussed in detail in the FEDERAL REGISTER of March 13, 1974 (39 FR 9750), recodified as 21 CFR 314.200 on March 29, 1974 (39 FR 11680).

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter

summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration (HFC–20), Room 6–86, 5600 Fishers Lane, Rockville, MD 20852.

All submissions pursuant to this notice, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal, Food, Drug, and Cosmetic Act (secs. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 2.121).

Dated: May 16, 1974.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.74–11877 Filed 5–22–74;8:45 am]

Health Services Administration

NATIONAL MIGRANT HEALTH ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the Federal Advisory Committee Act, (P.L. 92–463), the Administrator, Health Services Administration, announces the meeting dates and other required information for the following National Advisory body scheduled to assemble during the month of June 1974:

Committee name	Date, time, place	Type of meeting and/or contact person
National Migrant Health Advisory Committee.	June 5–7, 9:00 a.m., Conference Room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—Contact Billy Sandlin, Room 7–22, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md., Code 301–443–1153.

Purpose. The Committee is charged with advising the Administrator on National policies and priorities; program guidelines, standards, and evaluation techniques; and other crucial issues relating to the migrant health program.

Agenda. The Committee will review a national health insurance proposal for migrants. The Committee will also review a proposed Federal Loan Program to Support Construction, Renovation/Maintenance to Promote a Safe and Sanitary Environment for Migrant Farmworkers. Administrative and staff reports will also be presented.

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: May 15, 1974.

ANDREW J. CARDINAL,
Associate Administrator for Management, Health Services Administration.

[FR Doc.74–11771 Filed 5–22–74;8:45 am]

Office of Education

GRANT AND PROCUREMENT MANAGEMENT DIVISION

Statement of Organization, Functions and Delegations of Authority

Part 2 (Office of Education) section 2–B, Organization and Functions, of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education, and Welfare is amended to change the title of the Contracts and Grants Division to "Grant and Procurement Management Division" so as to more specifically describe the functions being performed and to add responsibilities to other elements of the Office of Management which should have been included in the previously published statement. Therefore the statement published in the FEDERAL REGISTER on March 11, 1974, at 39 FR 9489 is amended as follows:

The statement under the heading Office of Management, Contracts and Grants Division, is amended by changing the title of the Contracts and Grants Division to "Grant and Procurement Management Division."

The statement under the heading Office of Management, Personnel and Training Division, is deleted and a new statement is added as follows:

Personnel and Training Division. Provides personnel management policy and procedures and interpretation of Civil Service Commission and departmental personnel standards for all elements of the Office of Education. Services rendered include: position classification; employment and placement screening and referral; employe relations and services; labor management relations; personnel action processing and records maintenance; and employee development and training.

The statement under the heading Office of Management, Management Systems and Analysis Division is deleted and a new statement is added to read as follows:

Management Systems and Analysis Division. Develops policies, plans, and goals for organizational structure, management systems, and manpower allocation and utilization; conducts management studies and manpower analysis; coordinates development of management information systems and data processing systems; evaluates and reports on the overall effectiveness of Office of Education organization and management, provides ADP systems analysis and programming services, monitors contracts providing computer programming support, and maintains liaison with the Data Management Center on computer operations and services. Responsible for the administrative budget of the Office of Education, delegations of authority, the employee suggestion awards system, issuance management, correspondence and records management, and the management improvement system.

Dated: May 16, 1974.

THOMAS S. MCFEE,
Acting Assistant Secretary for Administration and Management.

[FR Doc.74–11912 Filed 5–22–74;8:45 am]

Office of the Secretary

NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

Notice of Meeting

The eighth meeting of the National Professional Standards Review Council, which was established to advise the Secretary of the Department of Health, Education, and Welfare on the administration of Professional Standards Review (Title XI, Part B, Social Security Act), will be held on Monday, June 10, 1974, 3 p.m. to 5 p.m. and Tuesday, June 11, 1974, 9 a.m. to 3 p.m. in Room 5051, HEW North Building, 330 Independence Avenue SW., Washington, D.C. Professional standards review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality of health care. The Council's agenda will include discussion of a variety of issues relevant to the implementation of the PSRO program. The meeting is open to the public.

Dated: May 15, 1974.

HENRY E. SIMMONS,
Executive Secretary, National Professional Standards Review Council.

[FR Doc.74–11913 Filed 5–22–74;8:45 am]

NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL; SUBCOMMITTEES ON EVALUATION AND ON DATA AND NORMS

Notice of Meeting

A joint meeting of the National Professional Standards Review Council Subcommittee on Evaluation and Subcommittee on Data and Norms will be held Monday, June 10, 1974, 9 a.m. to 3 p.m. These Subcommittees were formed to review issues of importance in the implementation of Title XI, Part B, Social Security Act with respect to program evaluation of PSROs and PSRO data and norms of care. The meeting will be held in Room 5051, HEW North Building 330 Independence Avenue, SW., Washington, D.C. Professional standards review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate

professional standards for the provision of quality care. The agenda will consist of issues relating to these efforts. The meeting is open to the public.

Dated: May 15, 1974.

HENRY E. SIMMONS,
Executive Secretary, National Professional Standards Review Council.

[FR Doc.74-11914 Filed 5-22-74;8:45 am]

NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL; SUBCOMMITTEE ON POLICY DEVELOPMENT

Notice of Meeting

The National Professional Standards Review Council Subcommittee on Policy Development will meet Monday, June 10, 1974, 9 a.m. to 3 p.m. This Subcommittee was found to review policy issues of importance in the implementation of Title XI, Part B, Social Security Act. The meeting will be held in Room 5169, HEW North Building, 330 Independence Avenue, SW., Washington, D.C. Professional standards review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality care. The Subcommittee's agenda will include timely policy issues. The meeting is open to the public.

Dated: May 15, 1974.

HENRY E. SIMMONS,
Executive Secretary, National Professional Standards Review Council.

[FR Doc.74-11915 Filed 5-22-74;8:45 am]

STATE OF CALIFORNIA

Notice to Physicians Regarding Intention To Enter Into Agreement Designating Professional Standards Review Organization

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.103, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, to enter into an agreement with the Greater Sacramento Professional Standards Review Organization designating it as the Professional Standards Review Organization for PSRO Area IV, which area is designated a Professional Standards Review Organization area in 42 CFR 101.7.

The Secretary has determined that the Greater Sacramento Professional Standards Review Organization is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of California, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 per centum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area IV. As stipulated in Articles of Incorporation, the principal officers of the Greater Sacramento Professional Standards Review Organization are:

Name and office held

1. John M. Babich, M.D., President.
2. James J. Schubert, M.D., Medical Director.
3. James C. Bramham, Jr., M.D., Chairman.

The official address of the corporation is 650 Howe Avenue, Sacramento, California 95825.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area IV who objects to the Secretary entering into an agreement with the Greater Sacramento Professional Standards Review Organization on the grounds that this organization is not representative of doctors in such area, may, on or before June 24, 1974, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box 2111, Rockville, Maryland 20852. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e. direct patient care and related clinical activities, administrative duties in a medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 1,316 doctors of medicine and osteopathy are engaged in active practice in the PSRO Area IV. In the event that more than 10 per centum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Greater Sacramento Professional Standards Review Organization is representative of such doctors in such area.

Dated: May 14, 1974.

HENRY E. SIMMONS,
Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc.74-11920 Filed 5-22-74;8:45 am]

STATE OF COLORADO

Notice to Physicians Regarding Intention To Enter Into Agreement Designating Professional Standards Review Organization

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, to enter into an agreement with the Colorado Foundation for Medical Care designating it as the Professional Standards Review Organization for the State of Colorado, which area is designated a Professional Standards Review Organization in 42 CFR 101.8.

The Secretary has determined that the Colorado Foundation for Medical Care is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Colorado, as a non-profit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in Colorado. As stipulated in its Articles of Incorporation, the principal officers of the Colorado Foundation for Medical Care are:

Name and office held

1. Kenneth A. Khan, M.D., President.
2. Howard T. Robertson, M.D., Chairman.
3. David T. Garland, D.O., Secretary.
4. Dwight C. Dawson, M.D., Treasurer.

The official address of the corporation is 1601 East 19th Avenue, Denver, Colorado 80218.

Any licensed doctor of medicine or osteopathy engaged in active practice in Colorado who objects to the Secretary entering into an agreement with the Colorado Foundation for Medical Care on the grounds that this organization is not representative of doctors in such area may, on or before June 24, 1974, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box #2111, Rockville, Maryland 20852. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e. direct patient care and related clinical activities, administrative duties in a medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 4,354 doctors of medicine and osteopathy are engaged in active practice in the State of Colorado. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Colorado Foundation for Medical Care is representative of such doctors in such area.

Dated: May 14, 1974.

HENRY E. SIMMONS,
Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc.74-11916 Filed 5-22-74;8:45 am]

STATE OF MARYLAND

Notice to Physicians Regarding Intention To Enter Into Agreement Designating Professional Standards Review Organization

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, to enter into an agreement with the Prince George's Foundation for Medical Care, Inc. designating it as the Professional Standards Review Organization for PSRO Area IV located in the State of Maryland, which area is designated a Professional Standards Review Organization in 42 CFR 101.24.

The Secretary has determined that the Prince George's Foundation for Medical Care, Inc., is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Maryland, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 per centum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area IV. As stipulated in its Articles of Incorporation, the principal officers of the Prince George's Foundation for Medical Care, Incorporated are:

Name and office held

1. William A. Holbrook, M.D., President.
2. William B. Hagan, M.D., Vice President.
3. William B. Gunther, M.D., Secretary.
4. Forest K. Harris, M.D., Secretary.

The official address of the corporation is 5801 Annapolis Road, Suite 302, Hyattsville, Maryland 20784.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area IV who objects to the Secretary entering into an agreement with the Prince George's Foundation for Medical Care, Inc. on the grounds that this organization is not representative of doctors in such area may, on or before June 24, 1974, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box #2111, Rockville, Maryland 20852. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in active practice of medicine or osteopathy (i.e. direct patient care and related clinical activities, administrative duties in a medical facility or other health related institution, and/or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 497 doctors of medicine and osteopathy are engaged in active practice in the PSRO Area IV. In the event that more than 10 per centum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Prince George's Foundation for Medical Care, Inc., is representative of such doctors in such area.

Dated: May 14, 1974.

HENRY E. SIMMONS,
Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc.74-11919 Filed 5-22-74;8:45 am]

STATE OF MISSISSIPPI

Notice to Physicians Regarding Intention To Enter Into Agreement Designating Professional Standards Review Organization

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, to enter into an agreement with the Mississippi Foundation for Medical Care, Inc., designating it as the Professional Standards Review Organization for the State of Mississippi, which area is designated a Professional Standards Review Organization area in 42 CFR 101.28.

The Secretary has determined that the Mississippi Foundation for Medical Care, Inc., is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Mississippi, as a non-profit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in the State of Mississippi. As stipulated in its Articles of Incorporation, the principal officers of the Mississippi Foundation for Medical Care, Inc., are:

Name and office held

1. J. T. Davis, M.D., President.
2. Charles L. Matthews, Executive Vice President.
3. James O. Gilmore, M.D., Chairman, Board of Directors.
4. Tom Mitchell, M.D., Chairman, Professional Standards Review Organization Steering Committee.

The official address of the corporation is 735 Riverside Drive, Mississippi 39216.

Any licensed doctor of medicine or osteopathy engaged in active practice in the State of Mississippi who objects to the Secretary entering into an agreement with the Mississippi Foundation for Medical Care, Inc., on the grounds that this organization is not representative of doctors in such area may, on or before June 24, 1974, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box #2111, Rockville, Maryland 20852. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility or health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 1,766 doctors of medicine and osteopathy are engaged in active practice in the State of Mississippi. In the event that more than 10 per centum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Mississippi Foundation for Medical Care, Inc., is representative of such doctors in such area.

Dated: May 14, 1974.

HENRY E. SIMMONS,
Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc.74-11917 Filed 5-22-74;8:45 am]

STATE OF NEW MEXICO

Notice to Physicians Regarding Intention To Enter Into Agreement Designating Professional Standards Review Organization

Notice is hereby given, in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, to enter into an agreement with the New Mexico Professional Standards Review Organization designating it as the Professional Standards Review Organization for the State of New Mexico, which area is designated a Professional Standards Review Organization area in 42 CFR 101.35.

The Secretary has determined that the New Mexico Professional Standards Review Organization is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of New Mexico, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in the State of New Mexico. As stipulated in its Articles of Incorporation, the principal officers of the New Mexico Professional Standards Review Organization are:

Name and office held

1. Hugh B. Woodward, M.D., President.
2. Earl B. Flanagan, M.D., Vice President.
3. Edwin B. Herring, M.D., Secretary-Treasurer.
4. Ralph R. Marshall, Executive Director.

The official address of the corporation is 1009 Bradbury Drive, S.E. Albuquerque, New Mexico 87106.

Any licensed doctor of medicine or osteopathy engaged in active practice in the State of New Mexico who objects to the Secretary entering into an agreement with the New Mexico Professional Standards Review Organization on the grounds that this organization is not representative of doctors in such area may, on or before June 24, 1974, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box #2111, Rockville, Maryland 20852. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e. direct patient care and related clinical activities, administrative duties in a medical facility or other health related institution, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 1,138 doctors of medicine and osteopathy are engaged in active practice in the State of New Mexico. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the New Mexico Professional Standards Review Organization is representative of such doctors in such area.

HENRY E. SIMMONS,
Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

MAY 14, 1974.

[FR Doc.74-11918 Filed 5-22-74;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON REGULATORY GUIDES

Change to Meeting Notice

MAY 20, 1974.

This notice is to advise of an agenda change to the meeting notice for the ACRS Subcommittee on Regulatory Guides, published at 39 FR 17574, May 17, 1974. In addition to the agenda items noticed, the Subcommittee and any of its consultants that may be required may meet in closed session with members of the Regulatory Staff for the purpose of discussing individual opinions concerning the bases and philosophy for handling proposed Regulatory Guides for advance, high-temperature reactors and components. This session will involve the internal policymaking processes of both the Subcommittee and the Regulatory Staff and will necessarily require the exchange and discussion of the individual opinions, advice and recommendations of the persons present.

I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that the above-noted closed session will consist of exchanges of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). Any factual material that may be presented during this portion of the meeting will be inextricably intertwined with such exempt material and no further separation of exempt and non-exempt material is feasible. It is essential to close this additional portion of the meeting to protect the free interchange of internal views and to avoid undue interference with Subcommittee and agency operation. All other aspects of the notice of meeting published at 39 FR 17574 remain unchanged.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-11994 Filed 5-22-74;8:45 am]

[Dockets Nos. 50-348-OL, 50-364-OL]

ALABAMA POWER CO.

Notice of Hearing on Application for Facility Operating Licenses

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), the National Environmental Policy Act of 1969 (NEPA), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities" and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held concerning the application of the Alabama Power Company (the Applicant) for facility operating licenses to possess, use and operate the Joseph M. Farley Nuclear Plant, Units 1 and 2, in accordance with the provisions of the licenses and the technical specifications appended thereto. These two pressurized water nuclear reactors (the facilities) are located on the Applicant's site in Houston County, Alabama. Each unit would operate at steady-state power levels up to 2652 megawatts thermal.

The evidentiary hearing to consider the issuance of the operating licenses will be held at a time and place to be set in the future by the Atomic Safety and Licensing Board (the Board), to begin in the vicinity of the facility. Construction of the facility was authorized by AEC Construction Permits No. CPPR-85 and CPPR-86, issued by the Commission on August 16, 1972. The facility is subject to the provisions of Appendix D to 10 CFR Part 50, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities.

The Board, designated by the Chairman of the Atomic Safety and Licensing Board Panel, will consist of:

John F. Wolf, Esq., Chairman
Dr. Harry Foreman, Member
Dr. Hugh C. Paxton, Member

A "Notice of Receipt of Application for Facility Operating Licenses; Notice of Consideration of Issuance of Facility Operating Licenses; Notice of Availability of Applicant's Environmental Report; and Notice of Opportunity for Hearing" was published in the FEDERAL REGISTER on October 30, 1973 (38 FR 29907). The notice provided that, within thirty (30) days from the date of publication, any person whose interest may be affected by the proceeding could file a petition for leave to intervene in accordance with the Commission's "Rules of Practice" in 10 CFR Part 2. A petition for leave to intervene was thereafter filed by Mr. Walter B. Whatley of Columbia, Alabama. As set forth in a Board Memorandum and Order issued contemporaneously with this Notice, Mr. Whatley's request to intervene has been granted and a public hearing will be held, with Mr. Whatley admitted as a party to the proceeding.

A prehearing conference or conferences will be held by the Board, at a date and place to be set by it, to consider pertinent matters in accordance with the Commission's "Rules of Practice." The date and place of the hearing will be set by the Board at or after the prehearing conference. Notices as to the dates and places of the prehearing conference and hearing will be published in the FEDERAL REGISTER. The specific issues to be considered at the hearing will be determined by the Board.

For further details pertinent to the matters under consideration, see the application for the facility operating licenses dated August 29, 1973, as amended, and the Applicant's Environmental Report dated August 29, 1973, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the George S. Houston Memorial Library, 212 W. Vurdeshaw Street, Dothan, Alabama 36301. As they become available, the following documents may be inspected at the above locations: (1) the safety evaluation prepared by the Directorate of Licensing; (2) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; (3) the Commission's final detailed statement on environmental considerations; (4) the report of the Advisory Committee on Reactor Safeguards on the application for facility operating licenses; (5) the proposed facility operating licenses; and (6) the technical specifications, which will be attached to the proposed facility licenses.

Copies of items (1), (3), (4), and (5), when available, may be obtained by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding but who has not filed a petition for leave to intervene as noted above, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's "Rules of Practice." Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such

limits and on such conditions as may be determined by it. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, not later than June 24, 1974. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's "Rules of Practice," may be filed by the parties to this proceeding not later than June 12, 1974.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Pending further order of the Hearing Board designated for this proceeding, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's "Rules of Practice," an original and twenty (20) conformed copies of each such paper with the Commission.

It is so ordered.

Issued at Bethesda, Maryland, this 17th day of May 1974.

For the Atomic Safety and Licensing Board (designated to rule on petitions for leave to intervene).

THOMAS W. REILLY,
Chairman.

[FR Doc.74-11883 Filed 5-22-74;8:45 am]

[Docket Nos. 50-254, 50-265]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS AND ELECTRIC CO.

Issuance of Changes to Technical Specifications of Facility Operating Licenses

No request for a hearing or petition for leave to intervene having been filed following publication of the notice of proposed action in the FEDERAL REGISTER on March 22, 1974 (39 FR 10928), the Atomic Energy Commission (the Commission) has issued Change No. 16 to the Technical Specifications of Facility Operating Licenses Nos. DPR-29 and DPR-30 to the Commonwealth Edison Company and the Iowa-Illinois Gas and Electric Company (the licensees). This change, effective immediately, authorized only that portion of the proposed action dealing with changes to the limiting conditions for operation associated with fuel densification for the current 7 x 7 fuel authorized for use in Quad-Cities Units 1 and 2. The licensees are presently authorized to possess and operate Quad-Cities Units 1 and 2 located in Rock Island County, Illinois, at power levels up to 2511 MWt using a full core of 7 x 7 fuel (containing uranium 235).

The Commission's Regulatory staff has found that the application for the above action dated February 8, 1974, complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission regulations published in 10 CFR Ch. I and has completed its evaluation of the action and issued a Safety Evaluation concluding that there is reasonable assurance that the health and safety of the public will not be endangered by operation in accordance with the changes to the Technical Specifications as authorized by Change No. 16, which is incorporated in the subject licenses by Amendments 7 and 4 thereto.

A copy of Amendments 7 and 4 with Change No. 16 to the Technical Specifications of Facility Operating Licenses Nos. DPR-29 and DPR-30 and the Directorate of Licensing's Safety Evaluation are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and at the Moline Public Library at 504 17th Street in Moline, Illinois 61265. Single copies of these items may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C., 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Maryland, this 14th day of May 1974.

For the Atomic Energy Commission.

DENNIS L. ZIEMANN,
Chief Operating Reactors Branch No. 2, Directorate of Licensing.

[FR Doc.74-11756 Filed 5-22-74;8:45 am]

[Docket Nos. 50-413, 50-414]

DUKE POWER CO.

Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e)(1) of the Atomic Energy Commission's (Commission) regulations, the Commission has authorized the Duke Power Company to conduct certain site activities in connection with the Catawba Nuclear Station (Units 1 and 2) prior to a decision regarding the issuance of a construction permit.

The activities that are authorized include site preparation, excavation of earth and rock for Reactor, Auxiliary, Service and Turbine Buildings and pump structures, construction of cofferdams, waste water collection basin dam and dikes, installation of yard drains and condenser cooling water pipes, construction of access roads and railroads, fencing, exterior utility and lighting systems, sanitary sewage treatment facilities, wells for potable and construction water and intake for construction service water from Lake Wylie, and erection of 15 temporary construction buildings and areas.

The authorization is subject to the condition that the authorized work shall terminate if the application for the construction permit is denied.

Any activities undertaken pursuant to this authorization are entirely at the risk of the applicant, and the granting of the authorization has no bearing on the issuance of a construction permit with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders promulgated pursuant thereto.

A partial Initial Decision on environmental issues was issued by the Atomic Safety and Licensing Board in this proceeding on April 9, 1974. An order on site suitability, pursuant to 10 CFR 50.10 (e)(2)(ii), was issued by the Board on May 14, 1974. A copy of: (1) The Partial Initial Decision of April 9, 1974; (2) the Board's order of May 14, 1974; (3) the applicant's Preliminary Safety Analysis Report and amendments thereto; (4) the applicant's Environmental Report and amendments thereto; (5) the staff's Final Environmental Statement dated December 1973; (6) the staff's Safety Evaluation Report dated October 12, 1973 and Supplement No. 1 dated January 21, 1974 and (7) the Commission's letter of authorization dated May 16, 1974, are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and the York County Library, 325 South Oakland Avenue, Rock Hill, South Carolina 29730.

Dated at Bethesda, Maryland this 16th day of May 1974.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.74-11759 Filed 5-22-74;8:45 am]

[Docket No. 50-231]

GENERAL ELECTRIC CO. AND SOUTHWEST ATOMIC ENERGY ASSOCIATES

License Termination Order

The Atomic Energy Commission ("the Commission") has found that the Southwest Experimental Fast Oxide Reactor (SEFOR) located in Cove Creek Township, Washington County, Arkansas, has been partially dismantled and disposition made of the component parts and other special nuclear and byproduct materials (pursuant to the Commission's order dated November 1, 1973) in accordance with the Commission's regulations in 10 CFR Ch. I and in a manner not inimical to the common defense and security or to the health and safety of the public. Any radioactive material remaining as contaminants and activated hardware at the Southwest Experimental Fast Oxide Reactor Facility is licensed concurrently with issuance of this order by the State of Arkansas under Radioactive Material License No. ARK-396-BP-9-74 dated August 29, 1972.

Accordingly, pursuant to the application dated April 17, 1973, from General

Electric Company, Facility License No. DR-15 is hereby terminated as of the date of this order.

Also, Indemnity Agreement No. B-35 between General Electric Company and the Atomic Energy Commission dated August 11, 1967, as amended, is hereby terminated as of the date of this order and concurrently Amendment No. 10 to Indemnity Agreement No. B-35 is being executed.

Date of issuance: May 14, 1974.

For the Atomic Energy Commission.

KARL R. GOLLER,
Assistant Director for Operating Reactors, Directorate of Licensing.

[FR Doc.74-11760 Filed 5-22-74;8:45 am]

[Docket No. 50-267]

PUBLIC SERVICE COMPANY OF COLORADO

Notice of Issuance of Facility License Amendment

Notice is hereby given that the U.S. Atomic Energy Commission (the Commission) has issued Amendment No. 1 to Facility Operating License No. DPR-34 issued to Public Service Company of Colorado which revised Technical Specifications for operation of the Fort St. Vrain Nuclear Generating Station, located near Platteville in Weld County, Colorado. The amendment is effective as of its date of issuance.

The amendment permits (1) exceptions to requirements for installation of secondary closures during certain initial low power physics testing; (2) changes to monitoring requirements during certain radioactive effluent releases; (3) adjustments to timing for tendon load cell and reactor vessel concrete crack surveillance; (4) changes to checks, calibrations and testing of the loop shutdown system; and (5) redefining certain administrative responsibilities and authorities of the offsite Nuclear Facility Safety Committee.

The application for the amendment complies with the standards and requirements of the Act and the Commission's rules and regulations and the Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Ch. 1, which are set forth in the license amendment.

For further details with respect to this action, see (1) the application for amendment dated April 17, 1974, (2) Amendment No. 1 to License No. DPR-34, with any attachments, and (3) the Commission's related Safety Evaluation. All of these are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Greeley Public Library, City Complex, Greeley, Colorado 80631.

A copy of items (2) and (3) may be obtained upon request addressed to the United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing-Regulation.

Dated at Bethesda, Maryland, this 17th day of May 1974.

For the Atomic Energy Commission.

ROBERT A. CLARK,
Chief, Gas Cooled Reactors Branch, Directorate of Licensing.

[FR Doc.74-11757 Filed 5-22-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 24248; Order 74-5-94]

AEROLINEAS ARGENTINAS

Notification and Order Disapproving Schedules

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 30th day of April 1974.

Aerolineas Argentinas is the holder of a foreign air carrier permit issued pursuant to Order 73-5-47 authorizing it to perform foreign air transportation with respect to persons, property and mail, over three routes between a point or points in Argentina, via specified intermediate points, to New York, Miami and Los Angeles. There exists no formal Air Transport Services Agreement between the Government of the United States and the Government of Argentina. The rights exchanged are based primarily on comity and reciprocity.

The Government of Argentina has issued various licenses to Braniff Airways, Inc. and to Pan American World Airways, Inc. authorizing scheduled air services between specified points in the United States and Buenos Aires, via named intermediate points. These permits specify the maximum number of frequencies which may be operated over each route. Applications for increases of the number of frequencies specified are not freely granted but require participation in lengthy regulatory proceedings. United States carriers have applied for additional frequencies several times during the past few years, most recently in March 1974. These applications have been denied on the grounds that additional service was not warranted.

Order 72-2-88 requires Aerolineas to file with the Civil Aeronautics Board copies of any and all proposed schedules of service between Argentina and the United States at least 30 days prior to the proposed effective date of such schedules. On April 22, 1974 Aerolineas filed new schedules which contemplate the operation of three additional flights between the United States and Argentina, via specified intermediate points, and the addition of New York as a coterminal point with Miami on two existing flights. Aerolineas proposes to implement these schedules effective May 20, 1974. Considering the denial by the Government of Argentina of the applications by United States carriers to provide additional frequencies between the United States and Argentina, the Board finds that the foundation of reciprocity upon which operations between the two countries are based will not provide a sufficient justification for the United States to provide additional service opportunities for the Argentine carrier at this time, and that, accordingly, the inauguration of the proposed additional service by Aerolineas Argentinas would adversely affect the public interest.[1]

The Board will reconsider its action, either in whole or in part, should the Government of Argentina show a willingness to authorize new frequencies for the U.S. carriers serving Argentina.

In order to be fully apprised of the use of the services which Aerolineas now holds out to the traveling public, the Board will require Aerolineas to submit monthly statistical reports.

Accordingly, it is ordered, that:

1. The schedules filed by Aerolineas Argentinas on April 22, 1974 be, and they hereby are, disapproved, and shall not be inaugurated, insofar as they provide for any scheduled flights to the United States in addition to those which the carrier is currently operating, and insofar as they provide for service to New York as a coterminal with Miami on any scheduled flights in addition to the flights on which the carrier currently serves New York as a coterminal with Miami.

2. Aerolineas Argentinas shall file with the Civil Aeronautics Board (Attention: Director, Bureau of International Affairs) within thirty days after the close of each calendar month the original and three copies of a statistical report covering its existing operations. Such report shall include:

a. The total number of third and fourth freedom passengers and the total number of fifth freedom passengers to/from the United States listed by city pair and with indication of percentage distribution.

b. The total number of seats available and load factor achieved to/from the United States listed by flight.

c. Cargo data including weight carried, freedom classification and load factor achieved to/from the United States by flight.

3. This Order shall be submitted to the President[2] and shall become effective on May 17, 1974.

4. This Order shall remain in effect until further order of the Board.

5. This Order shall be served on Aerolineas Argentinas and the Ambassador of Argentina in Washington, D.C.

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[1] The Board also finds that the public interest requires that Aerolineas Argentinas submit to the Board monthly statistical reports as to those flights which it continues to operate.

[2] This Order was submitted to the President on May 6, 1974.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-11908 Filed 5-22-74;8:45 am]

[Docket No. 22387]

INVESTIGATION OF AIR EXPRESS RATES

Notice of Conference

Pursuant to Board Order 74-5-23 dated May 6, 1974, an informal conference will be convened on May 28, 1974, at 2 p.m. (local time) in Room 726, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., for the purpose of assembling factual material and attempting to reach agreement on the divisions of revenues pursuant to operations conducted under Agreements C.A.B. 12866 and C.A.B. 17935 as amended.

For information concerning the issues involved and other details to be considered at the conference, interested persons are referred to Order 74-5-23 dated May 6, 1974.

[SEAL] ROBERT J. SHERER,
Director,
Bureau of Economics.

[FR Doc.74-11909 Filed 5-22-74;8:45 am]

[Docket 22859; Order 74-5-88]

UNITED AIR LINES, INC.

Order of Suspension Regarding Domestic Air Freight Rate Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 17th day of May 1974.

By tariff revisions bearing a posting date of April 16, 1974, and marked to become effective June 1, 1974, United Air Lines (United) proposes to increase its domestic air freight rates as follows:

1. *Mainland.* All bulk and container general commodity rates:

Mileage	Westbound	Eastbound
	Percent	*Percent*
Less than 1,000 miles	12.0	12.0
1,000 to 1,800 miles	8.0	10.0
1,801 and over miles	5.0	10.0

Exceptions:

a. Time-of-tender container rates will not be increased;

b. Long-haul rates, where below short-haul rates, will be increased to the short-haul level; and

c. Bulk minimum charges by $1.00 per shipment.

2. *Hawaii-Mainland.* Bulk general commodity rates for 1,000, 2,000, and 3,000-pound shipments by amounts equal to 6 percent of the westbound 500-pound rates in effect prior to February 18, 1974;

Exceptions:

a. Container general commodity rates by varying percentages to match competition, with an average increase of approximately 6.0 percent; and

b. Bulk minimum charge to $16.

3. *System* (both Mainland and Hawaii). Specific commodity rates by 10 percent in all markets.

Exceptions:

a. Lower deck container rates and bulk rates for selected commodities, primarily agricultural produce, will not be increased;

b. Cut flowers:

(i) reduce these specific commodity rates in some markets to offset the recent increase in the dimensional cube rule;

(ii) increase or cancel these rates in other markets; and

(iii) place an expiry date of December 31, 1975 on all specific commodity rates on cut flowers, except from Honolulu and Hilo, for which the expiry date is December 31, 1974.[1]

In support of its proposal, United contends, *inter alia*, that (1) the proposal represents another move towards a totally cost-based and fully compensatory freight rate structure with eastbound rates closer to westbound rates and short-haul rates more closely related to costs; (2) the carrier has experienced an operating loss every year since 1969 from its all-cargo operations, ranging from $19.8 million (year ended December 31, 1970) to $2.8 million (year ended December 31, 1973); (3) because United's February 18, 1974 rate increase was partially suspended, revenue from the approved portion of that filing was not large enough to recover additional fuel expense beyond that previously considered by the Board; (4) the proposal is expected to generate $12.5 million of additional annual revenue, of which $6.8 million will be earned in all-cargo aircraft; and (5) since space on combination aircraft is insufficient to accommodate air freight demand, United's ability to provide freight service in all-cargo type aircraft has been impaired by the poor economics of these aircraft with today's rate structure.

With respect to specific commodity rate increases, United alleges that (1) the traffic which it considers least price-elastic at current rate levels will be tested for its ability to pay a higher share of fully allocated costs; (2) proposed rates on cut flowers are set at the level of the average value-of-service of air transportation for this commodity in each market; and (3) the carrier is proposing to maintain or establish specific commodity rates for cut flowers only in those markets where there is available lift and where such shipments can be handled expeditiously.

United also asserts that (1) the Bureau's cost and structure standards, as developed in Docket 22859 and now being used to evaluate the reasonableness of proposed rates, contain serious deficiencies and are predicated upon new theories and methods untried historically and not yet adjudicated; (2) the Board's recognition of a total cost increase of 7.5 percent for fuel should have been reflected entirely as a capacity expense; (3) freight rates should be based solely on all-cargo costs; and (4) as long as no rate is permitted to exceed a structured cost line which includes a return element but rates are permitted to fall below that line, there is no possibility for the carriers to achieve an overall allowable rate of return on investment and no new services could be introduced unless they offered an immediate 12 percent return on investment.

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 proposals or to permit them to become effective pending investigation.

United has made a showing of increased costs. The Board is aware of the unprecedented hikes in fuel prices in the past several months and believes that increases in rates and charges are warranted to help offset these increased costs.

Without prejudging the issues under investigation in Docket 22859, the most reasonable costs available to us at this time for the purpose of evaluating the rates proposed by the carriers appear to be industry average costs plus a full return on investment, based upon both all-cargo and combination aircraft. Today, almost 50 percent of all domestic air freight moves in the bellies of combination aircraft. The majority of U.S. communities have never received all-cargo service. Consequently, we believe, pending our decision in Docket 22859, that basing freight rates on all-cargo costs exclusively would not be representative of current conditions in the industry.

As indicated, United also alleges that, under the Board's orders, rates are not permitted to exceed costs but are permitted "to fall" below costs; thus, carriers cannot earn a full return. It appears to us, however, that the proper freight rate structure is one in which rates approach fully allocated costs as closely as possible,[2] although there is room for

[1] United has also filed to continue its cube rule of 266 cubic inches per pound to cut flowers from Hawaii until December 31, 1974, although the rule generally for other traffic is 194 cubic inches per pound.

[2] In the Board's decision in Docket 21866-9, *Domestic Passenger Fare Investigation, Phase 9—Fare Structure*, we stated, in connection with the coach-fare formula, "It is our judgment that the statutory scheme is best served in the long run by a fare structure which conforms as closely as possible to costs—rather than one which merely uses costs as a point of departure for value-of-service adjustments. To be sure, as a practical matter, it is impossible to frame separate fare structures for each of the carriers in this competitive industry, and to tailor fares in each individual market to its unique characteristics. As a result, the Board's long-run goal must therefore be oriented towards a fare structure based on the industry average costs of service at the various lengths of haul served in domestic operations." (Order 74-5-82, March 18, 1974, page 68 of the Opinion.)

some promotional rates under carefully controlled conditions. But the existence of discount rates (published at the discretion of the carriers) should not result in standard rates exceeding fully allocated costs.

We agree, however, with United's contention that the most recent fuel price increases should be considered in any evaluation of current industry costs. We also believe that such increases should be reflected entirely as capacity expense increases. We are, therefore, evaluating United's proposed rates upon the basis of the industry average costs, thus increased, which result in higher increases for longer hauls than for shorter hauls.

In the foregoing circumstances, and upon consideration of all other relevant factors, the Board finds that the proposals, generally to the extent they apply to the following rates, should be suspended: [3]

1. Westbound bulk general commodity rates for markets with lengths of haul of 1,150 miles and over for all weight-breaks;

2. Eastbound bulk general commodity 1,000-pound rates for distances of 1,350 miles and over and at the 2,000-pound weight-break for distances of 2,250 miles and over;

3. Eastbound bulk general commodity rates for other weight-breaks for lengths of haul of 2,300 miles and over;

4. Westbound general commodity rates and charges for Types A, B, B–2, and LD–11 containers for markets over 1,200 miles;

5. Westbound general commodity rates and charges for Type D containers for markets over 900 miles;

6. Westbound Types LD–N, LD–3, and LD–7 container rates and charges in a few markets;

7. Eastbound general commodity rates and charges for Type D containers in markets over 450 miles; and

8. Rates on human remains at all distances.

The remainder of United's proposals appear sufficiently related to costs that the Board will permit them to become effective. These include primarily all rate increases in short-haul markets, increases in the minimum charge per bulk shipments, and increases and/or cancellation of numerous specific commodity rates. The proposed increase and/or cancellation of specific commodity rates, except as indicated in Appendix A, is being permitted, consistent with our previous disposition of similar proposals by other carriers,[4] because, in our opinion, carriers should be accorded considerable flexibility as to offering such rates, which are typically justified primarily on a value-of-service basis.[5]

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 attached hereto are suspended and their use deferred to and including August 29, 1974, unless otherwise ordered by the Board and that no change be made therein during the period of suspension except by special permission of the Board; and

2. Copies of this order shall be filed with the tariff and served upon United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74–11911 Filed 5–22–74;8:45 am]

COMMISSION ON CIVIL RIGHTS

INDIANA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Indiana State Advisory Committee (SAC) to this Commission will convene at 10 a.m. on May 23, 1974, at the University of Notre Dame, Notre Dame, Indiana 46556.

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 plan preliminary groundwork for the Indiana Migrant Project.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 17, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74–11939 Filed 5–22–74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

ASTON MARTIN LAGONDA, INC.

Application for Suspension of 1975 Emission Standards

In the June 4, 1973, FEDERAL REGISTER (38 FR 14708), notice was given of application by Checker Motors Corporation for a one-year suspension of the 1975 light duty vehicle exhaust emission standards. After public hearing, the Administrator on July 16, 1973, granted a one year suspension to Checker and twenty-six other manufacturers who had subsequently filed applications. The decision on these applications and the interim standards that will apply to these manufacturers for 1975 model year vehicles were announced at 38 FR 20365 (July 31, 1973).

Subsequently, applications for suspension of 1975 emission standards were received from and granted to Glassic Industries, Inc., and Automobile F. Lamborghini S.p.A. (see 38 FR 32965), and Toyo Kogyo (see 39 FR 3713). The sole issue in evaluating these latter three applicants was whether each manufacturer had made all good faith efforts to comply with the 1975 emission standards.

On April 5, 1974, Aston Martin Lagonda applied for suspension of the 1975 emission standards. The procedures for disposition of this and all other applications for suspension under section 202(b)(5)(A) of the Act, filed with the Administrator prior to May 20, 1974, will be as follows: (i) the applications will be made available for public review and comment; (ii) the Administrator will conduct a public hearing, if, on the basis of public comments received, he determines a useful purpose would be served thereby (such hearing will be announced by FEDERAL REGISTER notice); (iii) each application will be reviewed by EPA to determine whether the applicant made all good faith efforts; (iv) if any application is deemed deficient, the applicant will be notified by EPA to supplement his suspension request and, if the applicant fails to satisfactorily revise the application, the applicant will be required to appear and testify at a public hearing; and (v) the Administrator will issue by FEDERAL REGISTER notice his decision to grant or deny the respective applications on or before the 60th day from the day of receipt of such applications.

Any interested person may participate in this procedure through the filing of written comments or information with the Director, Mobile Source Enforcement Division, Environmental Protection Agency, Room 3220, 401 M Street SW., Washington, D.C. 20460 on or before May 25, 1974.

Any person who provides written information for consideration may be required, upon 24 hours notice, to appear at a hearing, if held, to respond to questions by the panel or by such other interested persons as the panel deems appropriate at any time prior to conclusion of the hearing.

Presentations by interested persons shall be addressed whether the applicant has made all good faith efforts to meet the standard.

The applications and such portions of the applicant's supporting documentation as may properly be made public will be available for public inspection in the Freedom of Information Office, Environmental Protection Agency, Room 227, 401 M Street SW., Washington, D.C. 20460. Any person may obtain copies of public

[3] See Appendix A (filed as part of original document) for a complete listing of the markets for which the proposed rates are suspended.

[4] See, *e.g.*, Orders 74–4–54, 74–4–107, and 74–4–140.

[5] In its decision in Docket 22157, *United Air Lines, Inc., Specific Commodity Rates on Periodicals, Floral Products, and Seafood*, Order 72–11–78, November 20, 1972, the Board stated, "Because of their inherently prefential nature, the Board does not normally require carriers to publish SCR's, but leaves the offering and justification of SCR's to the carriers' initiative. Once a carrier institutes a particular SCR, it is still afforded a fairly broad area of discretion in revising such rates between the parameters of fully-allocated and incremental costs, subject to the Board's review."

portions of the applications as provided for by 40 CFR Part 2.

Dated: May 15, 1974.

JOHN QUARLES,
Acting Administrator.

[FR Doc.74-11752 Filed 5-22-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP72-110]

ALGONQUIN GAS TRANSMISSION COMPANY

Notice of Rate Change

MAY 14, 1974.

Take notice that Algonquin Gas Transmission Company (Algonquin Gas), on May 6, 1974, tendered for filing Ninth Revised Sheet No. 3-A to its FPC Gas Tariff, Original Volume No. 1.

This sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in section 22 of the General Terms and Conditions of its FPC Gas Tariff, Original Volume No. 1. Algonquin Gas states that the rate change is being filed to reflect an increase in purchased gas costs to be paid by Algonquin Gas to its supplier, Texas Eastern Transmission Corporation (Texas Eastern), scheduled to be effective June 14, 1974, as a result of a general rate increase filed by Texas Eastern on November 30, 1973, in Docket No. RP74-41.

The proposed effective date of the revised tariff sheet is June 14, 1974, the scheduled effective date of Texas Eastern's rate increase.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11809 Filed 5-22-74;8:45 am]

[Docket No. CP72-9]

ARKANSAS LOUISIANA GAS CO.

Petition To Amend

MAY 15, 1974.

Take notice that on April 1, 1974, Arkansas Louisiana Gas Company (Petitioner), P.O. Box 1734, Shreveport, Louisiana 71151, filed in Docket No. CP72-9 a petition to amend the order of the Commission issued November 1, 1971, as amended, in the subject docket pursuant to section 7(c) of the Natural Gas Act for authorization to exchange natural gas with Cities Service Gas Company (Cities) at four additional delivery points, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By Commission order issued November 1, 1971, Petitioner was authorized to exchange up to 10,000 Mcf of gas per day with Cities at all points of delivery between Petitioner and Cities under the subject authorization. Originally five such delivery points were authorized, which number has been increased through subsequent amendatory orders issued in the instant docket on July 17, 1972, April 20, 1973, and January 21, 1974. Petitioner seeks herein authorization to operate an additional three delivery points from Petitioner to Cities consisting of:

(1) An exchange point at a mutually agreeable point on Cities line in Woods County, Oklahoma;

(2) Shaller Well Exchange Point on Cities line in Hemphill County, Texas;

(3) Shattuck Exchange Point on Cities line Ellis County, Oklahoma; and to operate one additional delivery point from Cities to Petitioner, the McCullough-Wright Well Exchange Point in Hemphill County, Texas.

Petitioner states that no increase in total daily volumes of gas delivered for exchange is proposed and that the facilities by which Petitioner will receive gas and deliver it to Cities at the additional delivery points proposed herein will be constructed under Petitioner's budget-type certificate issued in Docket No. CP74-67 on January 16, 1974.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 3, 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) and the regulations under the Natural Gas Act (18 CFR 157.10). 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11810 Filed 5-22-74;8:45 am]

[Docket No. RI74-40]

ASHLAND OIL, INC.

Order Fixing Date for Hearing on Petition for Special Relief

MAY 15, 1974.

On October 11, 1973, Ashland Oil, Inc. (Ashland) filed an application pursuant to section 4 of the Natural Gas Act,[1] § 2.76 of the Commission's General Policy and Interpretations (hereinafter "§ 2.76"),[2] and the special relief provisions of the applicable area opinion.[3] Ashland seeks to increase the rate from 26.0 cents per Mcf for natural gas sold to Trunkline Gas Company (Trunkline) under a contract dated November 27, 1968. The petition concerns sales from wells drilled, redrilled, or reworked subsequent to October 1, 1973, on South Timbalier Block 179, offshore Louisiana.

Ashland seeks relief from the applicable rate in Southern Louisiana of 26.0 cents per Mcf as a condition to be met prior to the commencement of a proposed plan for redrilling or reworking of Well No. 2 OCS G-1565 [4] and for an exploratory well "to be drilled in Block No. 179". In a letter to Ashland dated October 2, 1973, Trunkline stated that it "will pay a price of forty-five cents (45¢) per Mcf for gas produced from all wells drilled or redrilled after October 1, 1973."

In a motion filed January 16, 1974, the Staff requests rejection of that portion of Ashland's petition which seeks special relief from the area rate for sales from wells which have not been drilled.

In answer to Staff's motion filed January 22, 1974, Ashland alleges error in Staff's reading of the Ashland petition insofar as Staff assumes the petition is solely based on § 2.76.

We find that the provisions for special relief embodied in the various area rate opinions do apply to drilling efforts which have not commenced. Among other purposes, these special relief provisions are available to afford the producer an opportunity to establish, through an evidentiary hearing, that adequate development cannot occur in the absence of rate relief. The burden of proof is on the producer to establish that the rate level proposed is just and reasonable. In the case at hand, Ashland must, to obtain the rate relief requested, establish, by credible evidence, (1) the direct and indirect costs, including the cost of capital funds to be invested, reasonably anticipated in connection with the particular Block 179 supply project here proposed; (2) the reserves reasonably anticipated as recoverable; and (3) the deliverability reasonably anticipated.

In a case of this nature, i.e., a case wherein special relief from area rates is sought, evidence of area, or national, costs and productivity is inappropriate.

Upon consideration of the record, when

[1] 15 U.S.C. § 717, et seq.

[2] Order Promulgating Policy With Respect To Sales Where Reduced Pressures, Need For Reconditioning, Deeper Drilling, Or Other Factors Make Further Production Uneconomical At Existing Prices, Order No. 481, Docket No. R-458, 49 FPC 992 (issued April 12, 1973), 18 C.F.R. § 2.76.

[3] Area Rate Proceeding, et al. (Southern Louisiana Area), Docket No. AR61-2, et al., and AR69-1, Opinion No. 598, 46 FPC 86, Opinion No. 589-A, 46 FPC 633 (1971).

[4] Sales from this well are currently made at 26.0 cents per Mcf under Ashland's FPC Gas Rate Schedule No. 209.

completed, the Administrative Law Judge should enter findings as to the just and reasonable rate level to be applied to Ashland's sales to Trunkline under the contract in question, if he determines that the existing area rate does not permit development of the Block 179 reserves. We so require because we do not perceive that Ashland's petition should be viewed as proposing a choice between a 45¢/Mcf rate and the area rate; rather, we view the petition as one seeking the determination of that rate, up to and including the contractual maximum, which is just and reasonable under the circumstances here present.

Section 2.76 authorizes relief in the circumstances set forth by Ashland with respect to the existing well and we shall set the matter for hearing to determine the measure of relief which would be appropriate.

We appreciate that expedition in the resolution of this case is important. Ashland faces loss of its lease because production from Well No. 2 has been suspended. Accordingly, we establish an expedited hearing schedule, and we direct that the Initial Decision in this case be entered within seven days after the record is closed. If the Initial Decision does not conclude this proceeding, we will entertain appropriate motions to expedite a Commission decision.

The Commission finds:

(1) For the reasons stated above the Ashland Oil, Inc. petition for special relief under the area rate, as it applies to wells which have not previously been drilled, should be set for hearing, and Staff's Motion should be denied.

(2) It is necessary and in the public interest that the request in the above docket relating to relief under Order No. 481 for reworking Well No. 2 OCS G–1565 be set for hearing.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14 and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Chapter I), Docket No. RI74–40 is set for hearing and disposition, both as to the petition under Order No. 481 and as to special relief under the area rate relative to wells to be drilled.

(B) A public hearing on the issues presented shall be held commencing on June 7, 1974, 10 a.m. (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426.

(C) A Presiding Law Judge to be designated by the Chief Law Judge for that purpose [See Delegation of Authority, 18 CFR 3.5(d)], shall preside at the hearing in this proceeding pursuant to the Commission's Rules of Practice and Procedure.

(D) Ashland shall file direct testimony and evidence on or before May 28, 1974. All testimony and evidence shall be served upon the Presiding Judge, the Commission Staff, and all other parties to this proceeding.

(E) The Commission Staff, and any intervenor opposing the application, shall file their direct testimony and evidence on or before June 3, 1974. All testimony and evidence shall be served upon the Presiding Judge, and all other parties to this proceeding.

(F) All rebuttal testimony and evidence shall be served on or before June 7, 1974. All parties submitting rebuttal testimony and evidence shall serve such testimony upon the Presiding Judge, the Commission Staff, and all other parties to the proceeding.

By the Commission.[5]

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11811 Filed 5–22–74;8:45 am]

[Docket No. E–8789]

CAROLINA POWER & LIGHT CO.

Notice of Application

MAY 16, 1974.

Take notice that on May 10, 1974, Carolina Power & Light Company (Applicant) filed an application with the Federal Power Commission seeking an order pursuant to section 203 of the Federal Power Act authorizing the Applicant to merge or consolidate its existing facilities with certain new facilities, title to which will be held by First National Bank of South Carolina, as trustee ("Trustee") for the benefit of General Electric Credit Corporation ("GECC"), or, in the alternative, disclaiming jurisdiction over the new facilities and determining that neither the Trustee nor GECC will be a "public utility" within the meaning of Parts II or III of the Act as a result of engaging in the transactions referred to herein, or, in the alternative, disclaiming jurisdiction over the Trustee and GECC as a result of engaging in such transactions.

Applicant is incorporated under the laws of the State of North Carolina, with its principal place of business at Raleigh, North Carolina, is qualified to do business in the State of South Carolina and is engaged in the electric utility business in the States of North Carolina and South Carolina.

The facilities to be consolidated are presently in the final stage of construction on property of the Applicant at Darlington, South Carolina and consist of eleven oil fired, internal combustion turbine generator units each with a rated capacity of approximately 57,000 kilowatts, together with certain related property, including three oil storage tanks, a pipe connecting the oil storage tanks with the turbines, starter equipment, connected controls, fuel heating equipment and other necessary production and support facilities. It is proposed that the Trustee would purchase the new facilities for an aggregate purchase price of approximately $46,035,000, with funds (representing approximately 70 percent of such purchase price) which would be borrowed by the Trustee from institutional lenders, and evidenced by certain notes ("Notes") and funds (representing the remaining 30 percent of such purchase price) which would be advanced to the Trustee by GECC as an investment in the beneficial ownership of the facilities.

The Trustee would simultaneously lease the facilities ("Equipment Lease") to Applicant for an initial term of 25 years. The Equipment Lease would be a "net" lease under which Applicant would operate the facilities and would be responsible for maintaining, repairing and insuring them and for paying substantially all taxes, assessments and other costs arising from the possession and use thereof. The rentals to be paid by Applicant would be calculated to provide funds sufficient to pay the principal and interest on the Notes and to return GECC's equity investment plus a return thereon.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 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 the 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11812 Filed 5–22–74;8:45 am]

[Dockets Nos. E–7685, E–7798]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Filing of Revised Tariff Sheets

MAY 16, 1974.

Take notice that on April 22, 1974, Central Vermont Public Service Corporation filed in the above-docketed proceedings revised sheets to its FPC electric tariff, First Revised Volume No. 1.

Central Vermont states that the subject filing is being made in conformance with the Commission's order dated March 19, 1974, approving a settlement of the above proceedings.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before June 7, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

[5] Commissioner Springer, concurring and dissenting, filed a separate statement which is filed as part of the original document.

not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Central Vermont's filing is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11813 Filed 5-22-74;8:45 am]

[Docket No. CI74-495]

CNG PRODUCING CO.

Order Granting Intervention and Setting Date for Hearing

MAY 15, 1974.

On March 7, 1974, CNG Producing Company (CNG) filed an application pursuant to Sections 4 and 7 of the Natural Gas Act,[1] and § 2.75 [2] of the Commission's General Policy Statements, the Optional Procedure for Certificating New Producer Sales of Natural Gas set forth in Order No. 455,[3] (hereinafter Section 2.75) for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce to Consolidated Gas Supply Corporation (Consolidated) from the Choudrant Field, Lincoln Parish, Louisiana. CNG and Consolidated are affiliated companies.

CNG proposes under the optional procedure to sell natural gas to Consolidated at an initial price of 45.0 cents per Mcf at 15.025 psia, subject to upward and downward Btu adjustment, pursuant to a contract dated July 24, 1973. The contract provides for a 1.0-cent per Mcf price escalation each year, for reimbursement of 100 percent of all existing or future taxes. The contract also contains an area rate clause which CNG has agreed to waive upon receipt of a satisfactory certificate.

A notice of application was issued on March 26, 1974, and was published in the FEDERAL REGISTER April 2, 1974, at 39 F.R. 12064. A petition to intervene was filed by the American Public Gas Association. A notice of intervention and request for hearing was filed by The Public Service Commission of the State of New York. Consequently, we find a hearing is necessary to determine whether the present and future public convenience and necessity will be served by certificating these sales and whether the proposed rate is just and reasonable.

In Order No. 455, Statement of Policy Relating To Optional Procedure for Certificating New Producer Sales of Natural Gas, 48 FPC 218 (18 CFR 2.75) issued August 3, 1972, we stated (id. 229):

> We believe that each contract filed under the alternative procedure must be considered on the merits of the terms and provisions within each contract. There certainly must be some evidentiary basis proffered by the seller-applicant upon which we can judge whether the contract rate is just and reasonable. We will, absent a showing of special circumstance, accept as conclusive the cost findings embodied in our area rate decisions, as such may be supplemented from time to time by appropriate Commission order.

Of course, the "evidentiary basis proffered by the seller-applicant" must begin with cost evidence. Cost evidence is the keystone of the concept of "just and reasonable", and about which the evidence to be proffered must be constructed, City of Detroit v. F.P.C., 230 F. 2d 810, 818 (1955) cert. denied, 352 U.S. 829 (1956). It follows then, that the seller-applicant should introduce relevant evidence of the cost of the particular project for which certification is sought. Such evidence shall be deemed to constitute the "special circumstance" to be considered together with all other material evidence which would support a finding of a just and reasonable rate in excess of the applicable area rate.

For the applicant to carry its burden of proof as to the justness and reasonableness of the proposed rate, it must establish, by credible and relevant evidence, (1) the direct and indirect costs, including the cost of capital funds to be invested, reasonably anticipated in connection with the drilling program on the leases dedicated herein; (2) the reserves reasonably anticipated as recoverable; and (3) the deliverability reasonably anticipated.

Cost findings from the latest area rate decision may be incorporated by reference in this proceeding and may be considered as relevant evidence in determining a just and reasonable rate. Stingray Pipeline Company, et al., Opinion No. 693, Docket No. CP73-27, et al., issued May 6, 1974.

The Commission finds:

(1) It is necessary and in the public interest that the above-docketed proceeding be set for hearing.

(2) It is desirable and in the public interest to allow the above-named petitioner to intervene in this proceeding.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14 and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), Docket No. CI74-495 is set for the purpose of hearing and disposition.

(B) A public hearing on the issues presented by the application herein shall be held commencing on June 13, 1974, 10 a.m. (edt) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

(C) A Presiding Law Judge to be designated by the Chief Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(D) CNG and any intervenor supporting the application shall file their direct testimony and evidence on or before May 30, 1974. All testimony and evidence shall be served upon the Presiding Judge, the Commission Staff, and all parties to this proceeding.

(E) The Commission Staff, and any intervenor opposing the application, shall file their direct testimony and evidence on or before June 4, 1974. All testimony and evidence shall be served upon the Presiding Judge, and all other parties to this proceeding.

(F) All rebuttal testimony and evidence shall be served on or before June 11, 1974. All parties submitting rebuttal testimony and evidence shall serve such testimony upon the Presiding Judge, the Commission Staff, and all other parties to the proceeding.

(G) The above named petitioner is permitted to intervene in this proceeding subject to the rules and regulations of this Commission; *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interest as specifically set forth in said petition for leave to intervene; and *provided, further,* That the admission of such interest shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(H) The contract between CNG and Consolidated dated July 24, 1973, is accepted for filing as of the date of initial delivery and designated CNG Producing Company FPC Gas Rate Schedule No. 1.

By the Commission.[4]

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11815 Filed 5-22-74;8:45 am]

[Docket No. CI74-612]

COLUMBIA GAS DEVELOPMENT CORP.

Notice of Application

MAY 16, 1974.

Take notice that on April 30, 1974, Columbia Gas Development Corporation (Applicant), P.O. Box 1350, Houston, Texas 77001, filed in Docket No. CI74-612 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's General Policy and Interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale of natural gas in interstate commerce to Columbia Gas Transmission Corporation (Columbia Gas) from Blocks 256 and 257, Vermilion Area, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on November 2, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale from the end of the 130-day emergency period within

[1] 15 U.S.C. 717 et seq. (1970).

[2] 18 CFR 2.75.

[3] Statement of Policy Relating To Optional Procedure For Certificating New Producer Sales Of Natural Gas, Docket No. R-441, 48 FPC 218 (issued August 3, 1972), appeal pending sub nom. John E. Moss et al. v. F.P.C. No. 72-1837 (D.C. Cir.).

[4] Commissioner Smith, concurring, filed a separate statement filed as part of the original document.

the contemplation of § 2.75 of the Commission's General Policy and Interpretations (18 CFR 2.75). Pursuant to a contract dated April 22, 1974, Applicant proposes to sell natural gas to Columbia Gas at an initial price of 45.0 cents per Mcf at 15.025 psia, subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot. Said contract provides for a term of 20 years with annual price escalations of 2.0 cents per Mcf and with Columbia Gas to reimburse Applicant 100 percent of any additional or increased taxes. Applicant estimates that 16,800 million Mcf of natural gas reserves underlie the subject acreage which will be attributable to Applicant. Applicant further estimates sales volumes from said acreage will average 165,000 Mcf per month.

Applicant asserts that there is a nationwide shortage of natural gas heretofore recognized by the Commission and that domestic gas exploration and development is needed. Applicant states that as a wholly-owned subsidiary of Columbia Gas System, Inc. (Columbia), it is engaged in an exploratory and development program designed to help Columbia meet its customers' needs.[1]

Applicant states further that it must receive an initial price of 45.0 cents per Mcf in view of the increasing cost of exploration and the degree of exploratory effort necessary to meet the existing requirements of Columbia. In this regard, Applicant states that a strong cash flow must be developed to enhance Applicant's capital raising ability and to provide funds required for future gas procurement investments. Applicant alleges that the sale of gas proposed herein would be less costly than supplemental gas sources whose costs Applicant estimates as $1.00 to $1.50 per Mcf of vaporous gas equivalent of liquefied natural gas, $1.25 to $1.50 per Mcf for Alaskan natural gas, and over $2.00 per Mcf for synthetic gas from reforming and gasification.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 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 protest 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.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11816 Filed 5-22-74;8:45 am]

[1] Approximately 90 percent of Columbia's total gas supply comes from the southwest of which 47 percent of such supplies are transported by Columbia Gulf Transmission Company (Columbia Gulf) to the heart of its market areas. In spite of efforts to augment Columbia's supplies from the southwest, Applicant states that the point has been reached where utilization of Columbia Gulf's (an affiliate of Applicant and a wholly owned subsidiary of Columbia) existing capacity will begin to fall off. Applicant estimates that Columbia must acquire an additional 5.9 billion Mcf of gas reserves in 1981 to maintain full utilization of the Columbia Gulf system.

[Docket No. E-8780]

COMMONWEALTH EDISON

Notice of Revised Sheets

MAY 15, 1974.

Take notice that on May 2, 1974 Commonwealth Edison (Edison) tendered for filing the following Revised Sheets as part of its FPC Electric Tariff for wholesale electric service to municipalities:

5th Revised Sheet No. 1
7th Revised Sheet No. 76
2nd Revised Sheet No. 76A
5th Revised Sheet No. 77
7th Revised Sheet No. 78
2nd Revised Sheet No. 78A
1st Revised Sheet No. 78B
9th Revised Sheet No. 199

Edison states the said Revised Sheets have been filed to avoid possible delays that might result from hearings on antitrust issues raised from questions concerning Edison's rate provision.

Edison proposes to modify the availability clause of Rate 78, Sheet No. 1 of the Tariff to read as follows: "This rate applies to service rendered to any municipality for resale." Edison states this filing also includes a revised Electric Service Contract between the City of Naperville, Illinois and Edison.

Edison proposes that the provision of Rate 78, Sheet No. 1, be effective June 2, 1974. Edison requests an effective date of January 25, 1974 for Electric Service Contract.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., 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 May 28, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are one file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11817 Filed 5-22-74;8:45 am]

[Docket No. E-8781]

CONNECTICUT LIGHT AND POWER CO.

Proposed Rate Schedule

MAY 15, 1974.

Take notice that on May 6, 1974, Connecticut Light and Power Company (CL&P) tendered for filing a proposed Purchase Agreement With Respect to Cos Cob, South Meadow and Silver Lake Gas Turbine Units, dated February 28, 1974, between (1) CL&P, Hartford Electric Light Company and Western Massachusetts Electric Company and (2) Montaup Electric Company (Montaup).

CL&P alleges that the purchase agreement provided for sale to Montaup of a specified percentage of capacity and energy from the eleven gas turbine generating units during the period from March 1, 1974 to April 30, 1974, together with related transmission service.

CL&P states that the filing is in accordance with Part 35 of the Commission's regulations. Omitted, however, is a form of notice suitable for publication in the FEDERAL REGISTER as required by § 35.8(a).

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 May 24, 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11818 Filed 5-22-74;8:45 am]

[Docket Nos. CP74-149, RP73-115, RP72-47]

CONSOLIDATED GAS SUPPLY CORP.

Offer of Settlement

MAY 16, 1974.

Take notice that on May 7, 1974, certain parties[1] to the proceeding and certain other parties[2] [hereinafter collectively referred to as Movants] filed in Docket No. CP74-149, consolidated with Docket Nos. RP73-115 and RP72-47 by Commission order issued on January 22, 1974 (51 FPC ——), a motion for approval of a settlement proposal that fixes maximum annual and daily volumetric limitations on natural gas deliveries to each customer on the pipeline system of Consolidated Gas Supply Corporation (Consolidated), in compliance with Commission order issued November 28, 1973 (50 FPC ——). Said order directed Consolidated to show cause why such limitations should not be established pursuant to Commission order issued on September 18, 1970 (44 FPC 997).

Movants' motion states that prolonged contested litigation in this matter would result in uncertainty regarding the gas service available to Consolidated's customers, and that as a result of informal settlement conferences among Consolidated, its customers, and the Commission Staff, a uniform basis was developed for determining maximum daily and annual limitations for the deliveries of natural gas. Movants' settlement proposal states that no party to the settlement will be deemed to have accepted, agreed, or consented to any theory or principle underlying, or which may be asserted to underlie, the proposal.

Movants agree to accept, or not to oppose, a final non-appealable order of the Commission directing Consolidated to file, as part of original Tariff Sheet No. 70 for inclusion in Volume 1 of its FPC Gas Tariff, the following volumetric limitations:

Purchaser	Maximum daily (Mcf)	Maximum annual (Mcf)
The East Ohio Gas Co.	1,622,000	331,430,000
Fillmore Gas Co	1,812	223,709
Hope Natural Gas Co.[1]	354,000	60,916,000
Iroquois Gas Corp	58,400	8,114,617
New York State Electric & Gas Corp	213,000	28,631,283
Niagara Mohawk Power Corp.	882,000	121,272,516
The Pavilion Natural Gas Co.	25,823	3,766,169
The Peoples Natural Gas Co.	460,000	112,052,000
The River Gas Co.	52,000	6,890,000
Rochester Gas and Electric Corp.[1]	388,000	57,171,000
Southern Tier Gas Corp.	6,656	937,548
Woodhull Municipal Gas Co.	420	55,199

[1] Hope Natural Gas Company, Rochester Gas and Electric Corporation, and Hanley and Bird have not filed for approval of the settlement.

[1] The Peoples Natural Gas Company, Consolidated Gas Supply Corporation, The Pavilion Natural Gas Company, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Southern Tier Gas Corporation, North Penn Gas Company, New York Public Service Commission, United Natural Gas Company, Corning Natural Gas Company, Iroquois Gas Corporation, Pennsylvania Gas Company.

[2] East Ohio Gas Company, The River Gas Company, Woodhull Municipal Gas Company, Fillmore Gas Company.

The volumetric limitations for Contract Quantity customers Hanley and Bird, North Penn Gas Company, Pennsylvania Gas Company, United Natural Gas Company, Corning Natural Gas Company, Iroquois Gas Corporation (AGR only) are those set forth in the Service Agreements.

Movants' motion further states that the maximum annual volume limitations shown above were derived by each customer's initially calculating its requirements based on normal weather for the number of customers estimated to be attached on December 31, 1974, plus an adjustment for worst weather requirements computed from a formula developed at the settlement conferences. The formula for determining the adjustment is calculated on the basis of all volumes of natural gas used by any given customer for all residential and commercial uses, including non-heat sensitive volumes, with an increment based on worst weather needs derived from the coldest 12-month period in the 30-year period ending in 1973, to wit:

$$(R + C) \times \frac{°\text{Days Design}}{°\text{Days Normal}} - (R + C) = X$$

R = Total Residential Heat and Non-Heat sensitive volumes (normal weather) attached as of December 31, 1974.

C = Total Commercial volumes (normal weather) both over and under 50 Mcf/d attached as of December 31, 1974.

°Days Design = Total degree days during coldest consecutive 12-month period in the 30-year period ending 1973. For purposes of determining temperature, published information reflecting temperatures from nearest United States weather reporting stations is employed.

°Days Normal = Total degree days under normal weather conditions based on 30-year period ending 1960.

X = The adjustment to be made to annual requirement for normal weather resulting in total annual Design requirement.

This formula was agreed upon in place of one proposed by Consolidated which was based on volumes used by residential and commercial heating customers only, with an increment based on worst weather needs derived during the winter of 1962–1963, to wit:

Total Residential and Commercial Heating Customers × Heating Consumption per customer, per degree day × 1962–1963 Winter Degree days Above normal = adjustment.

Any person desiring to be heard or to make any protest with reference with said motion should on or before June 10, 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. Persons who have heretofore filed petitions to intervene, notices of interventions, or protests need not file again.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11863 Filed 5-22-74;8:45 am]

[Docket No. RI74-138]

CONTINENTAL OIL CO.

Order Fixing Date for Hearing on Petition for Special Relief

MAY 15, 1974.

On January 21, 1974, Continental petitioned for special relief in Docket No. RI74-138 pursuant to Commission Opinion No. 586[1] seeking an initial rate of 40 cents per Mcf for natural gas to be produced from sections 8, 10, 11, 14, 15, and 31 in Block 5, I & GN Survey, Carson County, Texas, Hugoton-Anadarko Area. Cities Service Gas Company (Cities) agreed to the proposed increase in rate in a December 18, 1973, amendment to Continental Oil Company's FPC Gas Rate Schedule No. 301. Continental petitions for special relief from the area rate of the above-cited docket for wells not yet drilled.

Notice of Continental's petition in Docket No. RI74-138 was issued January 29, 1974, and published in the FEDERAL REGISTER on February 5, 1974 (39 FR 4609). Petitions to intervene were due on or before February 12, 1974. Cities petitioned to intervene in Docket No. RI74-138.

Continental seeks relief from the applicable rate in Hugoton-Anadarko as a condition to be met prior to the commencement of a proposed plan for exploration and development in Sections 8, 10, 11, 14, 15, and 31 in Block 5, I & GN Survey, Carson County, Texas.

The provisions for special relief embodied in the various area rate opinions were designed to afford the producer an opportunity to establish, through an evidentiary hearing, that adequate development cannot occur in the absence of rate relief. The burden of proof is on the producer to establish that the rate level proposed is just and reasonable. In the case at hand, Continental must, to obtain the rate relief requested, establish, by credible and relevant evidence, (1) the direct and indirect costs, including the cost of capital funds to be invested, reasonably anticipated in connection with the particular supply project here proposed; (2) the reserves reasonably anticipated as recoverable; and (3) the deliverability reasonably anticipated.

In a case of this nature, i.e., a case wherein special relief from area rates is sought, evidence of area, or national, costs and productivity is inappropriate.

Upon consideration of the record, when completed, the Administrative Law Judge should enter findings as to the just and reasonable rate level to be applied to Continental's sales to Cities under the contract in question, if he de-

[1] Hugoton-Anadarko Area Rate Proceeding, Docket No. AR64-1, et al., issued September 18, 1970, 44 FPC 761, aff'd., California v. F.P.C., 466 F. 2d 974 (9th Cir., 1972).

termines that the existing area rate does not permit development of the reserves. We so require because we do not perceive that Continental's petition should be viewed as proposing a choice between 40¢/Mcf rate and the area rate; rather, we view the petition as one seeking the determination of that rate, up to and including the contractual maximum which is just and reasonable under the circumstances here present.

The Commission finds:

For the reasons stated above the Continental Oil Company petition for special relief from the area rate should be set for hearing.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14 and 16 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR, Chapter I), Docket No. RI74–138 is set for hearing and disposition.

(B) A public hearing on the issues presented shall be held commencing on July 9, 1974, 10 a.m. (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

(C) A Presiding Law Judge to be designated by the Chief Law Judge for that purpose [See Delegation of Authority, 18 CFR 3.5(d)], shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(D) Continental shall file direct testimony and evidence on or before June 6, 1974. All testimony and evidence shall be served upon the Presiding Judge, the Commission Staff, and all other parties to this proceeding.

(E) The Commission Staff, and any intervenor opposing the application, shall file their direct testimony and evidence on or before June 21, 1974. All testimony and evidence shall be served upon the Presiding Judge, and all other parties to this proceeding.

(F) All rebuttal testimony and evidence shall be served on or before July 2, 1974. All parties submitting rebuttal testimony and evidence shall serve such testimony upon the Presiding Judge, the Commission Staff, and all other parties to the proceeding.

By the Commission.[1]

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11819 Filed 5–22–74;8:45 am]

[Docket No. RI74–108]

CONTINENTAL OIL CO.

Order Fixing Date for Hearing on Petition for Special Relief

MAY 15, 1974.

On December 20, 1973, Continental Oil Company (Continental) filed a petition for special relief in Docket No. RI74–108 pursuant to Ordering Paragraph (H) of Commission Opinion 586 issued September 18, 1970.[1] Continental requests a rate of 45¢/Mcf for natural gas to be produced in the Red Fork Formation, Section 17–17N–17W of Dewey County, Oklahoma, and sold to Panhandle Eastern Pipeline Company (Panhandle). In an agreement dated October 24, 1973, Continental and Panhandle amended their sales contract dated May 5, 1960, designated as Continental Oil Company's FPC Gas Rate Schedule No. 202, as amended.

Notice of Continental's petition in Docket No. RI74–108 was issued on January 9, 1974, and published in the Federal Register on January 16, 1974 (39 FR 2039). Petitions to intervene were due on or before January 29, 1974. Panhandle petitioned to intervene in Docket No. RI74–108.

Continental seeks relief from the applicable rate in Hugoton-Anadarko as a condition to be met prior to the commencement of a proposed plan for exploration and development of the Red Fork Formation, Section 17–17N–17W, Dewey County, Oklahoma.

The provisions for special relief embodied in the various area rate opinions were designed to afford the producer an opportunity to establish, through an evidentiary hearing, that adequate development cannot occur in the absence of rate relief. The burden of proof is on the producer to establish that the rate level proposed is just and reasonable. In the case at hand, Continental must, to obtain the rate relief requested, establish, by credible and relevant evidence, (1) the direct and indirect costs, including the cost of capital funds to be invested, reasonably anticipated in connection with the particular supply project here proposed; (2) the reserves reasonably anticipated as recoverable; and (3) the deliverability reasonably anticipated.

In a case of this nature, i.e., a case wherein special relief from area rates is sought, evidence of area, or national, costs and productivity is inappropriate.

Upon consideration of the record, when completed, the Administrative Law Judge should enter findings as to the just and reasonable rate level to be applied to Continental's sales to Panhandle under the contract in question, if he determines that the existing area rate does not permit development of the Section 17–17N–17W reserves. We so require because we do not perceive that Continental's petition should be viewed as proposing a choice between 45¢/Mcf rate and the area rate; rather, we view the petition as one seeking the determination of that rate, up to and including the contractual maximum which is just and reasonable under the circumstances here present.

The Commission finds:

For the reasons stated above the Continental Oil Company petition for special relief from the area rate should be set for hearing.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14 and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), Docket No. RI–74–108 is set for hearing and disposition.

(B) A public hearing on the issues presented shall be held commencing on July 23, 1974, 10:00 A.M. (EDT) in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

(C) A Presiding Law Judge to be designated by the Chief Law Judge for that purpose [See Delegation of Authority, 18 CFR 3.5(d)], shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(D) Continental shall file direct testimony and evidence on or before July 5, 1974. All testimony and evidence shall be served upon the Presiding Judge, the Commission Staff, and all other parties to this proceeding.

(E) The Commission Staff, and any intervenor opposing the application, shall file their direct testimony and evidence on or before July 12, 1974. All testimony and evidence shall be served upon the Presiding Judge, and all other parties to this proceeding.

(F) All rebuttal testimony and evidence shall be served on or before July 19, 1974. All parties submitting rebuttal testimony and evidence shall serve such testimony upon the Presiding Judge, the Commission Staff, and all other parties to the proceeding.

By the Commission.[2]

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11820 Filed 5–22–74;8:45 am]

[Docket No. CP74–277]

EL PASO NATURAL GAS CO.

Notice of Application

MAY 16, 1974.

Take notice that on April 26, 1974, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP74–277 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a meter station to serve Southern Union Gas Company (Southern Union) in Hutchinson County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states that, by Commission order issued February 16, 1971, in Docket No. CP71–154 (45 FPC 256),

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[1] Commissioner Springer, dissenting, filed a separate statement filed as part of the original document.

[1] *Hugoton-Anadarko Area Rate Proceeding*, Docket No. AR64–1, *et al.*, issued September 18, 1970, 44 FPC 761, affirmed, *California v. F.P.C.*, 466 F. 2d 974 (9th Cir., 1972).

[2] Commissioner Springer, dissenting, filed a separate statement filed as part of the original.

Applicant was authorized to construct and operate a tap on its 18-inch Panoma pipeline in Hutchinson County, Texas, and to sell and deliver natural gas through September 30, 1971, on an emergency standby basis to Southern Union for resale and distribution to the community of Borger, Texas (Borger). Such deliveries by Applicant were necessary to prevent possible curtailment of gas service to Borger due to Southern Union's continuing decline in supply utilized to serve Borger. Applicant states that Southern Union had not, upon expiration of the authorization issued in Docket No. CP71–154, improved its supply situation and, for this reason, Applicant's facilities remained in place and Applicant continued to provide emergency standby deliveries to Southern Union for resale and distribution to Borger within the contemplation of § 157.22 of the Commission's regulations under the Natural Gas Act (18 CFR 157.22).

Southern Union, as a result of the continuing decline in availability of gas from its supply sources, filed an application on August 30, 1972, in Docket No. CP73–57, pursuant to section 7(a) of the Natural Gas Act for an order directing Applicant to provide natural gas service to the community of Borger. By order issued February 20, 1974, file Docket No. CP73–57, the Commission directed Applicant to sell and deliver up to 9,000 Mcf per day of natural gas, through existing facilities, to Southern Union for resale and distribution in Borger.

The application further states that in order properly and accurately to control such deliveries to Southern Union, Applicant proposes to construct and operate a meter station at the site of its existing tap located on the 18-inch Panoma pipeline.

Applicant states that the estimated cost of the proposed facilities, including overhead contingency and filing fees, is $17,584, which cost will be financed by use of working funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 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) and the regulations under the Natural Gas Act (18 CFR 157.10). 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.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11865 Filed 5–22–74;8:45 am]

[Docket No. CP74–280]

EL PASO NATURAL GAS CO.

Notice of Application

MAY 16, 1974.

Take notice that on May 1, 1974, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP74–280 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas mainline pipeline and compressor facilities, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant proposes to abandon in place the following facilities:

1. Approximately 134.2 miles of 16-inch O.D. pipeline commencing in Eddy County, New Mexico, and terminating at Applicant's Clint Junction Meter Station in El Paso County, Texas.

2. Approximately 41.1 miles of 16-inch O.D. pipeline commencing 5.5 miles from the tailgate of Applicant's Jal No. 1 Plant in Lea County, New Mexico, and terminating at Applicant's Pecos River Compressor Station in Eddy County, New Mexico.

Applicant proposes to abandon and salvage the following facilities:

1. Approximately the first 5.5 miles of the 16-inch O.D. pipeline commencing at the tailgate of Applicant's Jal No. 1 Plant in Lea County, New Mexico.

2. A 1,068 horsepower Solar gas turbine-driven compressor station known as the Cornudas Compressor Station located in Hudspeth County, Texas.

Applicant states that these facilities are no longer needed for the transportation of natural gas in interstate commerce because they represent excess design capacity resulting from the decline in the availability of supplies from the Permian Basin Area and that no reduction or termination of gas service will result from the proposed abandonment. Applicant is contemplating transfer of the pipeline facilities which will be abandoned in place to an existing subsidiary company, Mesquite Pipeline Company, who will prospectively own and operate the facilities to transport refined liquid petroleum products from the Famariss Oil & Refining Company refinery now under construction near Lovington in Lea County, New Mexico.

Applicant estimates the total cost of abandonment to be $109,050.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 4, 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) and the regulations under the Natural Gas Act (18 CFR 157.10). 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.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11868 Filed 5–22–74;8:45 am]

[Docket No. CI74–628]

JAMES M. FORGOTSON, SR.

Notice of Application

MAY 16, 1974.

Take notice that on May 6, 1974, James M. Forgotson, Sr. (applicant), 409 Beck Building, Shreveport, Louisiana 71101, filed in Docket No. CI74–628 an application pursuant to section 7(c) 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 to United Gas Pipe Line Compand (United), from the Tatum, SW/ Hosston-Cotton Valley Field, Rusk County, Texas, all as more fully set forth

in the application, which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 10,000 Mcf daily of natural gas to United from subject acreage for six months after August 23, 1974, or from the date of issuance of appropriate authorization by the Commission, whichever is sooner, at a rate of 55.0 cents per Mcf at 14.65 psia, plus reimbursement for all taxes, subject to upward adjustment from a base of 1,050 Btu per cubic foot and downward adjustment from a base of 1,000 Btu per cubic foot, pursuant to a contract between the parties dated April 11, 1974, within the contemplation of Section 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70).

The sale of the gas to United from subject acreage is currently authorized until August 23, 1974, by a certificate of public convenience and necessity issued by the Commission in Docket No. CI73-851 on August 23, 1973, at a price of 43.0 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 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.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11861 Filed 5-22-74;8:45 am]

[Dockets Nos. E-7548, E-8170]

GEORGIA POWER CO.

Proposed Rate Settlement Agreement

MAY 15, 1974.

Georgia Power Company (Georgia Power), on May 9, 1974, tendered for filing a Motion for Approval of Rate Settlement, accompanied by the proposed Settlement Agreement, dated April 24, 1974, and a Joint Motion for Suspension of Proceedings. The proposed agreement would constitute a settlement of all issues in both of the captioned proceedings.

The proceedings in Docket No. E-7548 involve Georgia Power's wholesale rate increase of $12.2 million (based on 1969 sales) which was filed on May 26, 1970, and was suspended by Commission order until January 1, 1971. Hearings were held and an initial decision was issued on August 3, 1972. That decision is now pending on exceptions thereto filed by various parties. The proceedings in Docket No. E-8170 involve Georgia Power's rate increase of $17.5 million (based on 1972 sales) which was filed on April 30, 1973, and was suspended by Commission order until December 12, 1973. No hearings have as yet been held in Docket No. E-8170.

Georgia Power states that the settlemen agreement provides for refunds of $2 million to the Company's 49 municipal customers and refunds of $3.46 million to its 42 electric membership cooperative customers, plus interest at 6¾ percent per annum, with respect to sales during the period January 1, 1971, through December 11, 1973, relating to sales under Docket No. E-7548.

The settlement agreement provides for a reduction of approximately $9.1 million in the rate increase filed in Docket No. E-8170, based upon 1972 sales. The proposed tariff as filed included a demand charge of $566.00 for 200 or less kilowatts of demand and $2.33 for each additional kilowatt of demand. The settlement provides for a demand charge of $487.00 for the first 200 kilowatts of demand and $1.82 for each additional kilowatt of demand, and for refunds to both municipal and cooperative customers, based upon sales for the period December 12, 1973 until the settlement rates become effective, computed at the rate of $79.00 for the first 200 or less kilowatts of demand for each delivery point, plus $0.51 for each additional kilowatt of demand, plus interest at 7 percent per annum.

The settlement agreement also provides for a fuel adjustment clause and for a High Voltage Discount of $0.20 per kilowatt for customers taking service at voltages in excess of 25,000 volts and discount of $0.02 per kilowatt of demand per mile (maximum, $0.16) for customer's transmission construction to take service at 115,000 volts. Certain changes in terms and conditions of service are also provided by the new agreement. Georgia Power's motion states that its 1971 realized rate of return, based upon the settlement agreement, is 5.62 percent, and that its 1972 realized rate of return, based upon settlement rates, is 8.45 percent.

Georgia Power states that copies of the settlement agreement have been provided all parties and has been agreed to by the Company and all but one intervenor.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 29, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11821 Filed 5-22-74;8:45 am]

[Docket No. E-8170]

GEORGIA POWER CO.

Notice Deferring Procedural Dates

MAY 14, 1974.

On April 26, 1974, the Municipal Interveners filed a motion for an extension of time pending disposition of the Company's motion for a suspension of the procedural dates. On April 29, 1974, Georgia Power Company filed a joint motion on its behalf and at the verbal request and concurrence of counsel for the Georgia Municipal Association, the municipal interveners, Georgia Electric Membership Corporation, Mitchell County Electric Membership Corporation, and Commission Staff Counsel, for suspension of the procedural dates.

On May 9, 1974, a motion for approval of rate settlement was filed in Docket Nos. E-8170 and E-7548.

Upon consideration, notice is hereby given that the procedural dates in the above matter are deferred pending further order of the Commission.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11822 Filed 5-22-74;8:45 am]

[Docket No. E-8786]

GULF STATES UTILITIES CO.

Notice of Change in Points of Delivery

MAY 15, 1974.

Take notice that on May 8, 1974, Gulf States Utilities Company (Gulf States) tendered for filing certain changes in points of delivery. According to Gulf States, this filing is made in accordance with electric service agreements between itself and Sam Rayburn Dam Electric Cooperative, Inc. (said agreement designated Rate Schedule FPC No. 98) and

between itself and Sam Houston Electric Cooperative, Inc. (said agreement designated Rate Schedule FPC No. 69).

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 May 29, 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11823 Filed 5-22-74;8:45 am]

[Docket Nos. E-8756, E-8758]

HARTFORD ELECTRIC LIGHT CO.

Proposed Rate Schedules

MAY 16, 1974.

Take notice that on May 1, 1974, Hartford Electric Light Company (HELCO) tendered for filing two proposed rate schedules. The first proposed rate schedule is a purchase agreement with respect to gas turbine units, dated December 1, 1972, between HELCO, Connecticut Light and Power Company (CL&P), Western Massachusetts Electric Company (WMECO), and the United Illuminating Company (UI) (UI agreement). The second proposed rate schedule is a purchase agreement with respect to Middletown Unit No. 4, dated December 31, 1973, between HELCO and Montaup Electric Company (Montaup Agreement).

HELCO states that the UI agreement provides for sales to UI of specified percentages of capacity and energy from the gas turbine units during the period June 1, 1974 and May 31, 1975. HELCO states further that the Montaup agreement provides for sales to Montaup of specified percentages of capacity and energy from the Middletown Unit No. 4 HELCO requests an effective date of June 1, 1974, for the UI agreement and January 1, 1974, with respect to the Montaup agreement.

HELCO alleges that the filing is in accordance with Part 35 of the Commission's Regulations. However, these filings omitted a form of notice suitable for publication in the FEDERAL REGISTER as required by § 35.8(a) of these regulations.

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 May 24, 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11824 Filed 5-22-74;8:45 am]

[Docket No. E-8774]

INDIANA AND MICHIGAN ELECTRIC CO.

Proposed Change to Interconnection Agreement

MAY 15, 1974.

Take notice that on May 6, 1971, Indiana and Michigan Electric Company (I&M) tendered for filing Modification No. 4 dated March 1, 1974, to the Interconnection Agreement dated June 1, 1968, between Central Illinois Public Service Company (Central) and I&M, designated Indiana Rate Schedule FPC No. 67.

Section 1 of Modification No. 4 provides for a new Service Schedule E—Short Term Power which supersedes the existing Service Schedule E designated by the Commission as Indiana Supplement No. 1 to Supplement No. 5 to Rate Schedule FPC No. 67. This new Service Schedule E provides for an increase in the Demand Charge for 40 cents to 45 cents per kilowatt per week. Section 1 also provides for a new Service Schedule G—Limited Term Power. Service Schedule E and Service Schedule G also provide for an additional service whereby the parties will supply and take Short Term Power or Limited Term Power, respectively which has been initially supplied especially for the service by a third party.

I&M requests that the Commission waive any requirements not already complied with under §§ 35.12 and 35.13 of the regulations under the Federal Power Act.

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 May 28, 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 proceding. 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11825 Filed 5-22-74;8:45 am]

[Docket No. E-8787]

IOWA ELECTRIC LIGHT AND POWER CO.

Notice of Application

MAY 16, 1974.

Take notice that on May 10, 1974, the Iowa Electric Light and Power Company (Applicant) filed an application pursuant to section 204 of the Federal Power Act with the Federal Power Commission seeking authority to issue and sell at competitive bidding $30,000,000 principal amount of First Mortgage Bonds.

Applicant is incorporated under the laws of the State of Iowa and is authorized to do business in the States of Iowa, Minnesota, Colorado and Nebraska with its principal business at Cedar Rapids, Iowa. Applicant is engaged primarily in the generation, transmission and sale at retail of electric energy in 51 counties in the State of Iowa.

The First Mortgage Bonds which are to mature July 1, 2004 will be issued on approximately July 18, 1974 under the Applicant's Indenture of Mortgage and Deed of Trust, dated August 1, 1940, as heretofore amended and supplemented by forty-one supplemental indentures and as to be further supplemented by a forty-second supplemental indenture to be dated July 1, 1974 between the Company and The First National Bank of Chicago, as Trustee. The rate of interest to be paid by the Applicant will be determined by competitive bidding in accordance with the Commission's regulations under the Federal Power Act.

The purpose for which the said securities are to be issued is the refunding of a portion of certain obligations to commercial banks. Such obligations, consisting of borrowings in the form of long-term notes and aggregating $63,500,000 at March 31, 1974, were made under a Bank Credit Agreement dated July 20, 1972, with three Chicago banks providing maximum borrowings of $75,000,000 with final maturity not later than July 20, 1977. Borrowings under this agreement bear interest at varying rates above the prime rate of interest charged by The First National Bank of Chicago from time to time on 90-day commercial loans to its prime commercial borrowers. Said agreement provides that borrowings may be reduced or repaid at any time without penalty. The Bonds are proposed to be issued in order to provide funds at a lower cost than is available through the issuance of the long-term notes referred to above or through other forms of long-term debt under present economic conditions.

Any person desiring to be heard or to make any protest with reference to this Application should on or before June 7, 1974 file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants

parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11834 Filed 5-22-74;8:45 am]

[Docket No. E-8782]

IOWA POWER AND LIGHT CO.

Proposed Rate Change

MAY 15, 1974.

Take notice that Iowa Power and Light Company (Iowa Power) on April 1974, tendered for filing an Electric Interchange Agreement with the City of Indianola (City), which is intended as a change in rate schedule to supersede Rate Schedule FPC No. 36, as amended. It is estimated that the proposed changes would increase revenues from jurisdictional sales and service by $129,000 based on the 12 month period ending December 31, 1973. Approximately $5,000 of this amount is attributable to increased rates for services provided under Rate Schedule FPC No. 36. The remaining amount constitutes anticipated revenues from services not previously furnished by Iowa Power. The additional services under the Agreement provide the City with several opportunities for exchanging capacity through interconnections with Iowa Power. These are:

(1) Purchase of participation type power and energy generated by Iowa Power's base load units;

(2) Delivery of power and energy through Iowa Power's transmission facilities to the City's electric system;

(3) Purchase of replacement energy for energy temporarily unavailable;

(4) Purchase of equalization power and energy for the purchase of equalizing reserve responsibilities;

(5) Sale of excess peaking capacity to Iowa Power.

In addition, the Agreement provides the City with the opportunity to purchase dispatching service, under which Iowa Power would act as agent for the City in performing normal dispatching functions.

Iowa Power states that the Interchange Agreement was entered into for the purpose of interconnecting facilities and co-ordinating operations of the two systems so that the systems themselves, the respective areas served and the public interest generally might benefit from more effective use of generating facilities, economies in the production of electric energy and improved service reliability. In addition, the Agreement will aid Iowa Power in meeting its responsibilities as a party to the Mid-Continent Area Power Pool (MAPP) Agreement.

Iowa Power requests the Commission waive the prior notice requirements and accept the filing with an effective date of December 31, 1973. Iowa Power states that copies of the filing have been served upon the City of Indianola, Iowa and the Iowa State Commerce Commission.

Any person desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., 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 May 28, 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11826 Filed 5-22-74;8:45 am]

[Docket No. E-8754]

JERSEY CENTRAL POWER & LIGHT CO.

Notice of Succession

MAY 16, 1974.

Take notice that on April 29, 1974, Jersey Central Power & Light Company filed Notice of Succession in ownership and operation relating to the agreements previously filed as New Jersey Power & Light Company FPC Rate Schedule Nos. 2, 10 to 12, 18 to 20, and 22.

Any person desiring to be heard or to make any protest with reference to this filing should on or before June 7, 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). Any person wishing to become a party to a proceeding or to participate as a party in any hearing related thereto must file a petition to intervene in accordance with the Commission's Rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. The document referred to in this notice is on file with the Commission and is available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11827 Filed 5-22-74;8:45 am]

[Docket No. ID-1731]

WENDELL P. JOHNSON

Notice of Application

MAY 16, 1974.

Take notice that on May 9, 1974, Wendell P. Johnson (Applicant) filed an initial application with the Federal Power Commission, pursuant to Section 305(b) of the Federal Power Act, to hold the following positions:

Vice President, Maine Yankee Atomic Power Company, Public Utility.
Vice President, Yankee Atomic Electric Company, Public Utility.

Maine Yankee Atomic Power Company is engaged in the generation and sale of electricity. The Company sells entire electrical output to its utility company stockholders.

Yankee Atomic Electric Company is engaged in the generation and sale of electricity. The Company sells its entire net electrical output to its utility company stockholders.

Any person desiring to be heard or to make any protest with reference to this application should on or before June 13, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11864 Filed 5-22-74;8:45 am]

[Docket No. E-8776]

KANSAS GAS AND ELECTRIC CO.

Notice of Agreement

MAY 15, 1974.

Take notice that on May 1, 1974 Kansas Gas and Electric Company (Kansas) tendered for filing a letter Agreement between Kansas and Western Power Division of Central Telephone and Utilities Corporation (Western Power) dated April 9, 1974 which supplements the Electric Interconnection Contract between said parties, designated as FPC Rate Schedule 101. Kansas states the said Agreement provides for the sale by Kansas of 20MW of LaCygne Unit No. 1 Participation Power for a twelve-month period commencing July 1, 1974.

Kansas proposes an effective date of July 1, 1974 for said Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1974. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11828 Filed 5-22-74;8:45 am]

[Docket No. CP74-278]

KANSAS-NEBRASKA NATURAL GAS COMPANY, INC.

Notice of Application

MAY 16, 1974.

Take notice that on April 29, 1974, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), P.O. Box 608, Hastings, Nebraska 68901, filed in Docket No. CP74-278 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant, in effect, to reclassify a portion of the supply of natural gas sold to the fertilizer plant of Farmland Industries, Inc. (Farmland), at Hastings, Nebraska, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

By order issued on December 10, 1962, in Docket No. CP63-28 (28 FPC 977), the Commission authorized Applicant, inter alia, to deliver to Farmland's Hastings plant 10,000 Mcf of natural gas per day on a firm basis, to be used as raw material in the production of anhydrous ammonia fertilizer, and to deliver 8,000 Mcf of gas per day on an interruptible basis to be used for process heat in the operation of plant equipment.

Applicant proposes to supply to Farmland's plant a maximum daily quantity of 16,000 Mcf of gas on a basis articulated as "special processing firm industrial service" priority,[1] pursuant to an agreement dated March 1, 1974, plus approximately 2,000 Mcf per day on an interruptible basis, pursuant to an agreement of April 1, 1974.

Under the terms of the agreement of March 1, 1974, Applicant will charge Farmland for 10,000 Mcf supplied on a firm basis to the fertilizer plant, until the Commission grants a certificate of public convenience and necessity authorizing the new priority service, a demand charge of 13.0 cents per Mcf of daily demand plus a commodity charge of 34.2 cents per Mcf delivered,[2] and under the terms of the agreement of April 1, 1974 for the remaining 8,000 Mcf, the following rate for interruptible service:

First 50,000 cu. ft. per month 87.1¢ per 1,000 cu. ft.
Next 50,000 cu. ft. per month 70.6¢ per 1,000 cu. ft.
Next 200,000 cu. ft. per month 59.6¢ per 1,000 cu. ft.
Next 9,700,000 cu. ft. per month 50.1¢ per 1,000 cu. ft.
Excess over 10,000,000 cu. ft. per month 48.1¢ per 1,000 cu. ft.

When the Commission approves the special priority service, Applicant will then charge Farmland for 16,000 Mcf of gas per day a demand charge of 11.1 cents per Mcf of daily demand and a commodity charge of 42.2 cents per Mcf of gas delivered.

Applicant states that suppliers of agricultural fertilizer are predicting a shortage of anhydrous ammonia fertilizer and that the special priority service is necessary to ensure process heat for maximum operating efficiency at Farmland's Hastings fertilizer plant.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 4, 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) and the regulations under the Natural Gas Act (18 CFR 157.10). 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.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11866 Filed 5-22-74;8:45 am]

[1] According to Applicant, said service is firm to the extent that delivery will be interrupted only after all interruptible customers have been interrupted; to the extent that a blend of No. 1 and No. 2 fuel oil can be used as an alternative source of process heat, although not as efficiently as gas; to the extent that no new facilities are to be constructed to transport the gas to be delivered to Farmland's plant; and to the extent that it will not affect the service of higher priority customers.

[2] Applicant states that this price is the current price under the current rate schedule for the sale authorized by the Commission's order of December 10, 1962, in Docket No. CP63-28 (28 FPC 677).

[Docket No. ID-1730]

ROBERT B. KILLEN

Notice of Application

MAY 16, 1974.

Take notice that on May 9, 1974, Robert B. Killen (Applicant) filed an initial application with the Federal Power Commission, pursuant to section 305(b) of the Federal Power Act, to hold the following positions:

Chairman of the Board, and President, the Dayton Power and Light Company, Public Utility.
Director, Ohio Valley Electric Company, Public Utility.

Dayton Power and Light Company engages in the production and sale of electric energy, purchase and sale of natural gas and the production and sale of steam.

Ohio Valley engages in the production and sale of electric energy to the Atomic Energy Commission and the sale of surplus electric energy to public utilities owning Ohio Valley's shares.

Any person desiring to be heard or to make any protest with reference to this application should on or before June 13, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11862 Filed 5-22-74;8:45 am]

[Docket No. CI74-603]

CHAS. T. McCORD, JR., ET AL.

Notice of Application

MAY 16, 1974.

Take notice that on April 22, 1974, Chas. T. McCord, Jr., and Henry Goodrich, d/b/a McCord-Goodrich Oil Company (Applicant), 1705 Beck Building, Shreveport, Louisiana 71101, filed in Docket No. CI74-603 an application pursuant to section 7(c) 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 to United Gas Pipe Line Company (United), from the Bourg

Field, Terrebonne Parish, Louisiana, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant is commencing the emergency sale of natural gas to United on May 9, 1974, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29), and proposes to continue said sale for a period of one year from the end of the emergency period within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell an average daily quantity of up to 2,000 Mcf of natural gas per day to United at 45 cents per Mcf of gas at 15.025 psia, under a contract which provides that the heating value shall be not less than 950 Btu per cubic foot. Applicant estimates the monthly sales to United at 45,000 Mcf of gas.

Applicant states that May 9, 1974, is the date on which the gas to be sold to United will become available since the gas was theretofore dedicated to sales made under authorization in Docket Nos. CS71-1040 issued on November 29, 1971 as Docket No. CS71-1014, et al., and Docket No. CI71-612 issued on April 6, 1973 (Opinion No. 656, 49 FPC 848).

Any person desiring to be heard or to make any protest with reference to said application should on or before June 4, 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.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11814 Filed 5-22-74;8:45 am]

[Docket No. CI74-617]

MESA OFFSHORE CO.

Notice of Application

MAY 15, 1974.

Take notice that on May 3, 1974, Mesa Offshore Co. (Applicant), P.O. Box 2009, Amarillo, Texas 79105, filed in Docket No. CI74-617 an application pursuant to section 7(c) 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 to Sea Robin Pipeline Company (Sea Robin) from Applicant's properties in Block 270, East Cameron Area and Block 330, Eugene Island Area, offshore Louisiana, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant proposes to sell natural gas from said acreage for a period of one year beginning July 13, 1974, within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to continue the sale of gas which is currently being sold to Sea Robin under a limited term certificate issued by the Commission in Docket No. CI73-663 on July 13, 1973, which certificate provides for delivery of approximately 7,500 Mcf of gas per day, initially, and an average of approximately 10,000 Mcf per day at 35.0 cents per Mcf at 15.025 psia, subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot. Under the continued authorization Applicant proposes to sell approximately 7,500 Mcf of gas initially and an average of approximately 10,000 Mcf of gas per day.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 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.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11829 Filed 5-22-74;8:45 am]

[Docket No. E-8778]

NEW YORK POWER POOL

Notice of Revised Agreement

MAY 15, 1974.

Take notice that on May 6, 1974 New York Power Pool (NYPP) tendered for filing Supplemental Rate Schedule dated February 1, 1974 which constitutes a revised New York Power Pool Agreement among the member organizations.

NYPP states the said Agreement provides certain changes in the structure of the New York Power Pool organizations, but does not affect or in any way change the nature or scope of the transactions in operating capability and energy or the generating reserve requirements provided for in the existing New York Power Pool Agreement, nor the rates, charges, classifications or practices relating thereto. The said Agreement provides for the creation of two new committees, the Environmental Committee and the Public Relations Committee. Minor changes have also been made so that all provisions of the Agreement are consistent with the creation of these additional committees.

NYPP requests an effective date of June 7, 1974 for said Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 30, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11830 Filed 5-22-74;8:45 am]

[Docket No. E-8765]

NEW YORK STATE ELECTRIC & GAS CORP.

Notice of Cancellation

MAY 15, 1974.

Take notice that on April 30, 1974, New York State Electric & Gas Corporation (NYSE&G) tendered for filing notice of

cancellation of its Rate Schedule FPC No. 57, effective October 28, 1973, between NYSE&G and Central Hudson Gas & Electric Corporation. NYSE&G states the said Schedule terminated by its own provisions on April 27, 1974.

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 May 28, 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11831 Filed 5-22-74;8:45 am]

[Docket No. E-8775]

NIAGARA MOHAWK POWER CORP.

Notice of Transmission Agreement

MAY 15, 1974.

Take notice that on May 2, 1974 Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing transmission agreement dated December 21, 1973 between Niagara Mohawk and Consolidated Edison Company of New York, Inc. (Con-Ed). Niagara Mohawk states the said Agreement provides for the transmission of emergency backup power and energy from Long Sault, Inc. at its St. Lawrence Switchyard to Con-Ed at its Pleasant Valley Substation. According to Niagara Mohawk, the use of the New York Power Pool Agreement, designated as Niagara Mohawk's Rate Schedule FPC No. 71, is not appropriate for the transmission of this power and energy. Niagara Mohawk states the said agreement provides that Con-Ed will pay it a capability charge of $30.00 per megawatt per week and an energy charge of 0.82 mills per kilowatt hour for transmission. In addition, Con-Ed will compensate Niagara Mohawk at a rate of 110 percent of Niagara's costs of supplying the losses associated with these deliveries.

Niagara Mohawk requests an effective date of January 1, 1974 for said Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11832 Filed 5-22-74;8:45 am]

[Docket No. CS67-8]

NORTH CENTRAL OIL CORP.

Petition for Waiver of Regulations

MAY 15, 1974.

Take notice that on April 29, 1974, North Central Oil Corporation (Petitioner), 4545 Post Oak Place Drive, Suite 301, Houston, Texas 77002, filed a petition in Docket No. CS67-8 for the Commission to waive in part subsection (c) of § 157.40 of the regulations under the Natural Gas Act (18 CFR 157.40(c)) so as to permit the sale of natural gas under Petitioner's small producer certificate in said docket from reserves acquired in place from Southern Natural Gas Company (Southern), a large producer, all as more fully set forth in the request, which is on file with the Commission and open to public inspection.

Section 157.40(c) provides in part that sales of natural gas may not be made pursuant to a small producer certificate from reserves acquired by a small producer by purchase of developed reserves in place from a large producer. Petitioner states that it acquired from Southern certain interests in the North Branch Field, Acadia Parish, Louisiana, and desires to continue the sale of gas therefrom to Texas Gas Transmission Corporation (Texas Gas) under its small producer certificate. Petitioner states that monthly average production from the North Branch Field has been approximately 7,900 Mcf of gas, of which 60 percent represents production from the portion of the reserves acquired from Southern. The present sale of gas from Southern to Texas Gas is covered by certificate authorization granted in Docket No. CP68-206 on April 4, 1968. Petitioner states that it is willing to sell all gas which may be produced from the developed reserves acquired from Southern at a rate not in excess of the applicable area rate.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 4, 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11833 Filed 5-22-74;8:45 am]

[Docket No. E-8773]

PACIFIC POWER & LIGHT CO.

Notice of Application

MAY 15, 1974.

Take notice that on May 6, 1974, Pacific Power & Light Company (Applicant), a corporation organized under the laws of the state of Maine and qualified to transact business in the states of Oregon, Wyoming, Washington, California, Montana and Idaho, with its principal business office at Portland, Oregon, filed an application with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of not exceeding $125,000,000 in an aggregate principal amount at any one time outstanding of unsecured promissory notes (1) pursuant to a Line of Credit ($65,000,000), and (2) in the form of Commercial Paper ($60,000,000).

(1) Unsecured promissory notes in an aggregate principal amount not exceeding $65,000,000 at any one time outstanding would be issued by Applicant to evidence borrowings under a Line of Credit extended by fourteen Banks. Each note so issued would be dated the day of issuance and would have a maturity of not more than ninety days from the date thereof. All notes issued pursuant to the Line of Credit would mature not later than December 31, 1975.

(2) Unsecured promissory notes in an aggregate principal amount not exceeding $60,000,000 at any one time outstanding would be issued and sold by Applicant to one or more Commercial Paper dealers. Each note issued as Commercial Paper would be dated the day of issuance, would have a maturity of not more than 270 days from the date thereof, and would be discounted at the rate prevailing at the time of issuance for Commercial Paper of comparable quality and maturity.

Proceeds from the borrowings to be made under the Line of Credit and in the form of Commercial Paper would be used to temporarily finance current transactions, including Applicant's construction expenditures for 1974-75, presently estimated at $561,987,000. The balance of funds required to meet estimated 1974-75 construction expenditures is expected to come, in part, from borrowings pursuant to a Letter Agreement dated March 19, 1974, not exceeding $35,000,000 at any one time outstanding and from permanent financing of a type and magnitude not yet finally determined.

Any person desiring to be heard or to make any protest with reference to this application should, on or before June 3, 1974, file with the Federal Power Commission, Washington, D.C. 20426, peti-

tions 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. The application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11835 Filed 5-22-74;8:45 am]

[Docket No. E-8783]

PENNSYLVANIA POWER & LIGHT CO.

Proposed Acquisition of Electric Transmission Facilities

MAY 15, 1974.

Take notice that Pennsylvania Power & Light Company (PP&L) on May 7, 1974, tendered for filing an application for an order under section 203(a) of the Federal Power Act, authorizing the acquisition of certain electric transmission facilities from Metropolitan Edison Company (Met Ed). The acquisition is in connection with the transfer of retail electric supply to the Steelton Plant of Bethlehem Steel Corporation from Met Ed to PP&L. The facilities which are proposed to be transferred are located in the Borough of Steelton, and the Townships of Swatara, Lower Swatara and Derry, Dauphin County, Pennsylvania.

Any person desiring to be heard or to make any protest with reference to said application should, on or before June 3, 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. The application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11836 Filed 5-22-74;8:45 am]

[Docket No. CI74-362]

W. C. PERRYMAN AND J. A. WALLENDER

Order Setting Date for Hearing and Granting Interventions

MAY 15, 1974.

On December 27, 1973, W. C. Perryman and J. A. Wallender (Applicant) filed an application pursuant to sections 4 and 7 of the Natural Gas Act[1] and § 2.75 of the Commission's General Policy Statements,[2] the optional certification procedure set forth in Order No. 455,[3] for a certificate of public convenience and necessity authorizing the sale of natural gas in interstate commerce to Southern Natural Gas Company (Southern) from acreage in the Joaquin Field, Shelby County, Texas.

The proposed sales are to be made pursuant to a base contract, ratified by Applicant in 1971, between Atlantic Richfield and Southern as amended on June 28, 1973. The amendment calls for an initial rate of 48.198 cents per Mcf with annual escalations of 0.975 cents per Mcf for gas from wells commenced after April 6, 1972.

Notice of the application was issued on January 17, 1974, and was published in the FEDERAL REGISTER on January 23, 1974, 39 FR 2639. The Notice was amended February 5, 1974, which amendment was published in the FEDERAL REGISTER on February 12, 1974, 39 FR 5363. Petitions to intervene were filed by Southern and the American Public Gas Association.

The estimated monthly volumes of gas to be delivered under the subject contract is 60,000 Mcf. Applicant states that it relies exclusively on the evidence presented in the Norris Oil Company et al., Docket No. CI 73-715 et al., proceeding.[4] Applicant avers that the facts of its present application are virtually identical to the facts in the Norris proceeding, including adjoining fields, identical rate provisions adjusted for pressure base, and a common base contract.

We are unable to certificate the proposed sales based on Applicant's averments of identical circumstances with a previously litigated case, e.g. Norris, supra. We will afford Applicants an opportunity to present evidence supporting the above outlined averments, as well as any further evidence it deems necessary to a finding that the present and future public convenience and necessity will be served by certificating the proposed sales and that the rate requested is just and reasonable.

In Order No. 455, Statement of Policy Relating To Optional Procedure For Certificating New Producer Sales Of Natural Gas, 48 FPC 218 (18 CFR 2.75) issued August 3, 1972, we stated (id. 229):

> We believe that each contract filed under the alternative procedure must be considered on the merits of the terms and provisions within each contract. There certainly must be some evidentiary basis proffered by the seller-applicant upon which we can judge whether the contract rate is just and reasonable. We will, absent a showing of special circumstance, accept as conclusive the cost findings embodied in our area rate decisions, as such may be supplemented from time to time by appropriate Commission order.

Of course, the "evidentiary basis proffered by the seller-applicant" must begin with cost evidence. Cost evidence is the keystone of the concept of "just and reasonable," and about which the evidence to be proffered must be constructed, City of Detroit v. F.P.C., 230 F.2d 810, 818 (1955) cert. denied, 352 U.S. 829 (1956). It follows then, that the seller-applicant should introduce relevant evidence of the cost of the particular project for which certification is sought. Such evidence shall be deemed to constitute the "special circumstance" to be considered together with all other material evidence which would support a finding of a just and reasonable rate in excess of the applicable area rate.

For the applicant to carry its burden of proof as to the justness and reasonableness of the proposed rate, it must establish, by credible and relevant evidence, (1) the direct and indirect costs, including the cost of capital funds to be invested, reasonably anticipated in connection with the drilling program on the leases dedicated herein; (2) the reserves reasonably anticipated as recoverable; and (3) the deliverability reasonably anticipated.

Cost findings from the latest area rate decision may be incorporated by reference in this proceeding and may be considered as relevant evidence in determining a just and reasonable rate. Stingray Pipeline Company, et al., Opinion No. 693, Docket No. CP73-27, et al., issued May 6, 1974.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14 and 16 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR, Chapter I), Docket No. CI74-362, is set for the purpose of hearing and disposition.

(B) A public hearing on the issues presented by the application herein shall be held commencing on July 9, 1974, 10 a.m. (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

(C) A Presiding Law Judge to be designated by the Chief Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(D) Applicant and any intervenor supporting the application shall file their direct testimony and evidence on or before June 14, 1974. All testimony and evidence shall be served upon the Presiding Judge, the Commission Staff, and all parties to this proceeding.

(E) The Commission Staff, and any intervenor opposing the application, shall file their direct testimony and evidence on or before June 24, 1974. All testimony and evidence shall be served upon the Presiding Judge, and all other parties to this proceeding.

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[1] 15 U.S.C. sec. 717, *et seq.* (1970).

[2] 18 CFR 2.75.

[3] *Statement Of Policy Relating To Optional Procedure For Certificating New Producer Sales of Natural Gas*, Docket No. R-441, 48 F.P.C. 218 (issued August 3, 1972), appeal pending *sub nom. John E. Moss, et al. v. F.P.C.*, No. 72-1837 (D.C. Cir.).

[4] Initial Decision issued September 10, 1973.

(F) All rebuttal testimony and evidence shall be served on or before July 2, 1974. All parties submitting rebuttal testimony and evidence shall serve such testimony upon the Presiding Judge, the Commission Staff, and all other parties to the proceeding.

(G) The above named petitioners are permitted to intervene in this proceeding subject to the rules and regulations of this Commission; Provided, however, that the participation of such intervenors shall be limited to matters affecting asserted rights and interest as specfically set forth in said petition for leave to intervene; and provided, further, that the admission of such interest shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(H) The September 9, 1971, agreement ratifying Atlantic Richfield Company (Operator), et al., FPC Gas Rate Schedule No. 380 and the amendments thereof are accepted for filing as of the date initial delivery designated as Supplement Nos. 1 and 2 to W. C. Perryman and J. A. Wallender FPC Gas Rate Schedule No. 1.

By the Commission.[1]

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11837 Filed 5-22-74;8:45 am]

[Docket No. E-7658]

POTOMAC EDISON CO. ET AL.

Notice of Compliance Filing

MAY 16, 1974.

Potomac Edison Company, Potomac Edison Company of Virginia, Potomac Edison Company of West Virginia, Potomac Edison Company of Pennsylvania.

Take notice that on May 6, 1974 the Potomac Edison System Companies (Potomac) tendered an amendment to their Intercompany Power Agreement. Potomac states that the proposed amendment is filed in accordance with the Commission's order of April 5, 1974, approving a settlement in this docket.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 24, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11838 Filed 5-22-74;8:45 am]

[1] Commissioner Smith, concurring, filed a separate statement, filed as part of the original.

[Docket No. E-8771]

PUBLIC SERVICE COMPANY OF NEW MEXICO

Notice of Supplemental Agreement

MAY 15, 1974.

Take notice that on April 30, 1974 Public Service Company of New Mexico (New Mexico) tendered for filing Supplemental Agreement between New Mexico and Community Public Service Company (CPSC) which supersedes the Contract for Electric Service dated February 7, 1968 between said parties. The said Agreement provides for New Mexico to furnish electric power and energy to CPSC during the period June 1, 1974 through May 31, 1974. New Mexico requests an effective date of June 1, 1974 for said Agreement.

New Mexico also tendered for filing a contract between New Mexico and CPSC for electric service commencing June 1, 1976 through June 1, 2006 or until terminated.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 23, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11839 Filed 5-22-74;8:45 am]

[Dockets Nos. E-8764, E-8772]

PUBLIC SERVICE COMPANY OF OKLAHOMA

Notice of Cancellation of Contracts

MAY 14, 1974.

Take notice that on May 3 and May 6, 1974, Public Service Company of Oklahoma (PSCO) tendered for filing Notices of Cancellation of Contracts. The Notice of Cancellation tendered May 3, 1974 is for Supplement No. 22 to Rate Schedule FPC 118 between PSCO and Southwestern Electric Power Company, dated October 2, 1972. The Notice of Cancellation tendered May 6, 1974, is for Supplement No. 1 to Supplement No. 9 and Supplement No. 9 to Rate Schedule FPC 180, between PSCO and Associated Electric Cooperative, Inc., dated January 31, 1973. PSCO states that the contracts expired by their own terms on May 31, 1974.

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 May 24, 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11840 Filed 5-22-74;8:45 am]

[Docket No. CI73-694]

RODMAN CORP.

Order Remanding Proceeding and Setting Date for Hearing

MAY 15, 1974.

This case is before us on exceptions filed by The Rodman Corporation (Rodman), Cities Service Gas Company (Cities), and the Staff to an initial decision issued January 15, 1974, by Administrative Law Judge Eisenberg. Docket No. CI73-694 involves an application by Rodman under the optional procedure established in Order No. 455 to sell natural gas to Cities from previously dedicated acreage in the Sooner Trend Field in Blaine, Garfield, Kingfisher, and Major Counties, Oklahoma (Hugoton-Anadarko Area). For the reasons set forth below, we remand the case to the Judge.

Rodman in Appendix C to its brief on exceptions presented for the first time project cost data, utilizing certain average nationwide costs in addition to the costs incurred by it. In opposing Rodman's exceptions, Staff requested that if the Commission wanted to consider Rodman's project costs, the case should be remanded for the submission of data and evidence pertaining to the costs that Rodman will actually incur with respect to its project. Actual project costs are relevant to the issues involved here. Accordingly, without in any way passing upon the issues now before us, we shall remand the case for further hearings to give all parties an opportunity to present evidence on this matter so that the record will be complete. The Administrative Law Judge should render his initial decision upon the whole record, as originally made and as supplemented as a result of this remand.

In Order No. 455, Statement Of Policy Relating To Optional Procedure For Certificating New Producer Sales Of Natural Gas, 48 FPC 218 (18 CFR 2.75) issued August 3, 1972, we stated (id. 229):

> We believe that each contract filed under the alternative procedure must be considered on the merits of the terms and provisions within each contract. There certainly must be some evidentiary basis proffered by the seller-applicant upon which we can judge whether the contract rate is just and reasonable. We will, absent a showing of special circumstance, accept as conclusive the cost findings embodied in our area rate decisions, as such may be supplemented from time to time by appropriate Commission order.

Of course, the "evidentiary basis proffered by the seller-applicant" must begin with cost evidence. Cost evidence is the keystone of the concept of "just and reasonable", and about which the evidence to be proffered must be constructed, City of Detroit v. F.P.C. 230 F. 2d 810, 818 (1955) cert. denied, 352 U.S. 829 (1956). It follows then, that the seller-applicant may introduce relevant evidence of the cost of the particular project for which certification is sought. Such evidence shall be deemed to constitute the "special circumstance" to be considered together with all other material evidence which would support a finding of a just and reasonable rate in excess of the applicable area rate.

For the applicant to carry its burden of proof as to the justness and reasonableness of the proposed rate, it must establish, by credible and relevant evidence, (1) the direct and indirect costs, including the cost of capital funds to be invested, reasonably anticipated in connection with the drilling program on the leases dedicated herein; (2) the reserves reasonably anticipated as recoverable; and (3) the deliverability reasonably anticipated.

The Commission finds: It is necessary and in the public interest that the above-docketed proceeding be remanded and set for further hearings.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14 and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), Docket No. CI73-694 is remanded for the purpose of further hearings and disposition.

(B) A public hearing on the issues herein shall be held commencing on June 20, 1974, 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.

(C) Rodman and any intervenor supporting the application shall file their direct testimony and evidence on or before May 31, 1974. All testimony and evidence shall be served upon the Presiding Judge, the Commission Staff, and all parties to this proceeding.

(D) The Commission Staff, and any intervenor opposing the application, shall file their direct testimony and evidence on or before June 11, 1974. All testimony and evidence shall be served upon the Presiding Judge, and all other parties to this proceeding.

(E) All rebuttal testimony and evidence shall be served on or before June 17, 1974. All parties submitting rebuttal testimony and evidence shall serve such testimony upon the Presiding Judge, the Commission Staff, and all other parties to the proceeding.

By the Commission.[1]

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11841 Filed 5-22-74;8:45 am]

[1] Commissioner Moody, dissenting, submitted a separate statement, filed as part of the original document.

[Docket No. CI74-590]

SIGNAL OIL AND GAS CO.

Notice of Application

MAY 16, 1974.

Take notice that on April 19, 1974, Signal Oil and Gas Company (Applicant), Golden Center 1, 2800 North Loop West, Houston, Texas 77018, filed in Docket No. CI74-590 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's General Policy and Interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Texas Eastern Transmission Corporation (Texas Eastern) from Block 321, East Cameron Area, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell natural gas to Texas Eastern from Block 321 at an initial rate of 60.0 cents per Mcf at 15.025 psia, subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot, pursuant to the terms of a 20-year contract between Applicant and Texas Eastern, dated January 28, 1974. Said contract calls for fixed periodic increases in price of two cents per Mcf for each year and for reimbursement of ⅞ of any new or additional taxes.

Applicant asserts that the contract price of 60.0 cents per Mcf, with adjustments, is substantially lower than prices for base load sales of liquefied natural or synthetic gas for which applications for authorization are pending or have been approved by the Commission. Applicant further asserts that its contract price is lower than prices for peak shaving sales of LNG and as such is a just price.

Applicant states that the gas made available to Texas Eastern is important in assisting Texas Eastern to meet firm demands for gas on its system. Estimated sales are 60,000 Mcf of gas per month.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 3, 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.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11842 Filed 5-22-74;8:45 am]

[Docket No. CI74-611]

SIGNAL OIL AND GAS CO.

Notice of Application

MAY 16, 1974.

Take notice that on April 30, 1974, Signal Oil and Gas Company (Applicant), Golden Center 1, 2800 North Loop West, Houston, Texas 77018, filed in Docket No. CI74-611 an application pursuant to section 7(c) 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 to Panhandle Eastern Pipe Line Company (Panhandle) from acreage in Alfalfa, Major and Woods Counties, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell an estimated 30,000 Mcf of gas per month to Panhandle at a rate of 75 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot but with no upward adjustment beyond 1,200 Btu per cubic foot, pursuant to the terms of a contract between Applicant and Panhandle dated April 15, 1974. Said contract calls for periodic escalations in price, with Panhandle to reimburse Applicant for 87.5 percent of any new, additional or increased taxes paid by Applicant.

The application states that Applicant will purchase raw gas, which will be processed and sold to Panhandle, from producers in the field under percentage type contracts.[1] Applicant states that it understands that Panhandle will utilize this gas to maintain adequate service to customers on its pipeline system. Applicant states further that its price of 75 cents is below prices proposed in applications for synthetic gas or liquefied natural gas (LNG) which have been approved or are pending before the Commission including an application filed in

[1] The percentage which producers will receive under their contracts is stated to vary from 80 to 90 percent of Applicant's residue price depending on the size of the producer's gas supply and its distance from Applicant's Aline Plant.

Docket No. CP74–138, *et al.* by Panhandle's affiliate, Trunkline LNG Company, currently before the Commission in which LNG is estimated to have a delivered base cost of $1.38 per Mcf in Louisiana. Applicant further asserts that there is an intrastate market in the area which stands ready to purchase the subject gas directly from these producers at prices of 60 to 65 cents per million Btu in the event this application is not approved.

Applicant states that gas will be sold through existing facilities and an extension of the present gathering system behind its Aline Plant will be required to attach the subject gas supplies.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 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.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11843 Filed 5–22–74;8:45 am]

[Docket No. CI74–622]

SKLAR & PHILLIPS OIL CO. (OPERATOR), ET AL.

Notice of Application

MAY 16, 1974.

Take notice that on May 1, 1974, Sklar & Phillips Oil Co. (Operator), *et al.* (Applicant), P.O. Box 3735, Shreveport, Louisiana 71103, filed in Docket No. CI74–622 an application pursuant to section 7(c) 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 to Arkansas Louisiana Gas Company (Arkla) from the West Wilberton Field, Pittsburg County, Oklahoma, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that it commenced a 180-day emergency sale of natural gas to Arkla from the West Wilberton Field on March 1, 1974, within the contemplation of Section 157.29 of the Regulations under the Natural Gas Act (18 CFR 157.29), and proposes to continue said sale after the end of the emergency period for one year at 45 cents per Mcf at 14.65 psia within the contemplation of Section 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant estimates monthly deliveries at 49,400 Mcf of natural gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 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.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11844 Filed 5–22–74;8:45 am]

[Docket No. CI74–630]

WAYNE J. SPEARS

Notice of Application

MAY 16, 1974.

Take notice that on May 6, 1974, Wayne J. Spears (Applicant), 804 Ouachita National Bank Building, Monroe, Louisiana 71201, filed in Docket No. CI74–630 an application pursuant to Section 7(c) 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 to Texas Gas Transmission Corporation (Texas Gas), from the Beekman Field, Morehouse Parish, Louisiana, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that it commenced the 180-day sale of natural gas from the O. E. Montgomery Well No. 1 in the Beekman Field, Morehouse Parish, Louisiana, on January 2, 1974, within the contemplation of § 157.29 of the Regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for a period of one year from the end of the emergency period within the contemplation of Section 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell gas produced from subject gas well or from wells located on leases and lands unitized or pooled therewith to Texas Gas at 50 cents per Mcf at 15.025 psia, subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 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.

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 this application if no petition to intervene is filed within the time required herein, if the Commssion on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11856 Filed 5–22–74;8:45 am]

[Docket No. E-8766]

SOUTHWESTERN ELECTRIC POWER CO.

Notice of Cancellation

MAY 15, 1974.

Take notice that on April 30, 1974 Southwestern Electric Power Company (SEPC) tendered for filing notice of cancellation of its Supplement No. 11 to FPC Rate Schedule No. 47, dated October 9, 1972 between SEPC and Arkansas Power and Light Company. SEPC states the said Supplement will expire of its own terms on May 31, 1974.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 22, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11845 Filed 5-22-74;8:45 am]

[Docket No. E-8570]

SOUTHERN CALIFORNIA EDISON CO.

Extension of Time and Postponement of Hearing

MAY 16, 1974.

On May 8, 1974, Staff Counsel filed a motion to extend the procedural dates fixed by order issued March 1, 1974, in the above-designated matter. The motion states that there was no opposition to the motion.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, June 25, 1974.
Service of Intervenor's Testimony, July 18, 1974.
Service of Company's Rebuttal, August 6, 1974.
Hearing, September 10, 1974 (10 a.m., e.d.t.).

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11846 Filed 5-22-74;8:45 am]

[Docket No. CI74-222]

TENNECO OIL CO.

Order Granting Intervention and Fixing Date for Hearing

MAY 15, 1974.

On October 11, 1973, Tenneco Oil Company (Tenneco) filed an application pursuant to Section 7(c) of the Natural Gas Act,[1] and pursuant to Section 2.75[2] of the Commission's General Policy and Interpretations, the Optional Procedure for Certificating New Producer Sales of Natural Gas set forth in Order No. 455[3] for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce to Arkansas Louisiana Gas Company (Arkla).

In its application, Tenneco proposes to sell natural gas from wells drilled after August 23, 1973, in the Deep Centrahoma Field, Coal County, Oklahoma, Other Southwest Area. The contract covering the sale, dated August 23, 1973, extends for a term of twenty years from the date of initial delivery and provides for an initial price of 45 cents per Mcf with 1 cent per Mcf escalations each year and reimbursement of 75% of any additional taxes.

Arkla, on November 20, 1973, filed a petition to intervene in this proceeding in support of Tenneco's application.

We find a hearing is necessary to determine whether the present and future public convenience and necessity will be served by certificating these sales, and whether the proposed rate is just and reasonable, taking into consideration all factors bearing on maintenance of an adequate and reliable supply of gas, delivered at the lowest reasonable cost.

This hearing is not the proper forum for the relitigation of the propriety of the Section 2.75 procedures; that matter is now before the Court of Appeals, see n. 3. *supra*. This hearing wil be addressed solely to the issues of public convenience and necessity, and the justness and reasonableness of the particular sales and rates herein proposed.

In the case at hand, we note that the applicant has not completed any wells on the acreage to be dedicated under the contract with Arkla. For the applicant to carry its burden of proof as to the justness and reasonableness of the proposed rate, it must establish, by credible and relevant evidence, (1) the direct and indirect costs, including the cost of capital funds to be invested, reasonably anticipated in connection with the Deep Centrahoma drilling program on the leases dedicated herein; (2) the reserves reasonably anticipated as recoverable; and (3) the deliverability reasonably anticipated. In a case of this nature, *i.e.*, where costs have not yet been incurred and productivity has not yet been determined, evidence of area, or national, costs and productivity is inappropriate.

The Commission finds:

(1) It is necessary and in the public interest that a hearing be held in this proceeding.

(2) It is desirable and in the public interest to allow the above-named petitioner to intervene in this proceeding.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14, 15, and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act (18 CFR Ch. I), Docket No. CI74-222 is consolidated for purposes of hearing and disposition.

(B) A public hearing on the issues presented by the proposals of the applicants herein shall be held commencing July 11, 1974, at 10:00 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street NW., Washington, D.C. 20426.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding pursuant to the Commission's Rules of Practice and Procedure.

(D) Tenneco and all intervenors supporting the application shall file their direct testimony and evidence on or before June 18, 1974. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to this proceeding.

(E) The Commission Staff and all intervenors opposing the application shall file their direct testimony and evidence on or before June 28, 1974. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, and all other parties to this proceeding.

(F) All rebuttal testimony and evidence shall be served on or before July 9, 1974. All parties submitting rebuttal testimony and evidence shall serve such testimony and evidence upon the Presiding Administrative Law Judge, the Commission Staff, and all other parties to this proceeding.

(G) The above-named petitioner is permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interest as specifically set forth in said petition for leave to intervene: *And provided, further,* That the admission of such interest shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(H) The contract between Tenneco and Arkla dated August 23, 1973, is accepted for filing effective as of the date of initial delivery, and designated as Tenneco Oil Company FPC Gas Rate Schedule No. 287.

By the Commission.[1]

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11848 Filed 5-22-74;8:45 am]

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[1] 15 U.S.C. sec. 717 *et seq.* (1970).
[2] 18 CFR 2.75.

[3] *Statement of Policy Relating To Optional Procedure For Certificating New Producer Sales Of Natural Gas,* Docket No. R-441, *sub. nom. John E. Moss, et al.* v. *F.P.C.*, No. 72-1837 (D.C. Cir.).

[1] Commissioner Springer, dissenting, filed a separate statement, filed as part of the original.

[Docket No. CP74-281]

TENNESSEE GAS PIPELINE CO.

Notice of Application

MAY 15, 1974.

Take notice that on May 2, 1974, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP74-281 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas facilities in the Grand Isle Area offshore Louisiana, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 2.56 miles of 4-inch pipeline beginning at Cities Service Oil Company's (Cities') platform in Block 45, Grand Isle Area, and extending to Cities' 42-C platform in Block 42, Grand Isle Area, where it will be connected to Applicant's existing 526C-1500 pipeline. Applicant states that this line is needed to transport gas which it proposes to buy from the following producers which have filed for authorization to sell gas to Applicant:

Seller	Docket No.	Date filed
Continental Oil Co.	CI74-526	Mar. 25, 1974
Atlantic Richfield Co.	CI74-551	Apr. 8, 1974
Getty Oil Co.	CI74-542	Apr. 1, 1974
Cities Service Oil Co.	CI74-549	Apr. 5, 1974

Applicant estimates that approximately 11,108,000 Mcf of gas will be available as a result of the construction of the proposed facilities, with a daily deliverability of 3,000 Mcf of gas at 14.73 psia.

The proposed facilities are estimated to cost $378,700, which will be financed initially with general funds and/or borrowing under revolving credit agreements.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 4, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropirate 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.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11851 Filed 5-22-74;8:45 am]

[Docket No. CI74-530]

TEXAS EASTERN EXPLORATION CO.

Order Granting Interventions and Setting Date for Hearing

MAY 15, 1974.

On March 21, 1974, Texas Eastern Exploration Company (Exploration) filed an application pursuant to Sections 4 and 7 of the Natural Gas Act,[1] and Section 2.75[2] of the Commission's General Policy Statements, the Optional Procedure for Certificating New Producer Sales of Natural Gas set forth in Order No. 455,[3] (hereinafter Section 2.75) for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce to its parent, Texas Eastern Transmission Corporation (Transmission) from Vermilion Blocks 147 and 201, East Cameron Block 222, and West Cameron Block 513, all offshore Louisiana.

The sales from these blocks will be made pursuant to four identical contracts each dated August 24, 1973. These contracts are for a term of 20 years from the date of initial delivery thereunder, include a proposed initial rate of 50 cents per Mcf with 1 cent per Mcf annual escalation, and upward and downward Btu adjustment from 1000. The area rate clause contained in the contracts will be waived if certification is granted.

A notice of application was issued on April 9, 1974, and was published in the FEDERAL REGISTER April 18, 1974, at 38 FR 13915. Petitions to intervene were filed by Central Illinois Public Service Company and Algonquin Gas Transmission Company. A notice of intervention and request for hearing was filed by the Public Service Commission of the State of New York. Consequently, we find a hearing is necessary to determine whether the present and future public convenience and necessity will be served by certificating these sales and whether the proposed rate is just and reasonable.

In Order No. 455, Statement of Policy Relating To Optional Procedure For Certificating New Producer Sales Of Natural Gas, 48 FPC 218 (18 CFR 2.75) issued August 3, 1972, we stated (*id.* 229):

> We believe that each contract filed under the alternative procedure must be considered on the merits of the terms and provisions within each contract. There certainly must be some evidentiary basis proffered by the seller-applicant upon which we can judge whether the contract rate is just and reasonable. We will, absent a showing of special circumstance, accept as conclusive the cost findings embodied in our area rate decisions, as such may be supplemented from time to time by appropriate Commission order.

Of course, the "evidentiary basis proffered by the seller-applicant" must begin with cost evidence. Cost evidence is the keystone of the concept of "just and reasonable", and about which the evidence to be proffered must be constructed, *City of Detroit* v. *F.P.C.*, 230 F. 2d 810, 818 (1955) *cert. denied*, 352 U.S. 829 (1956). It follows then, that the seller-applicant should introduce relevant evidence of the cost of the particular project for which certification is sought. Such evidence shall be deemed to constitute the "special circumstance" to be considered together with all other material evidence which would support a finding of a just and reasonable rate in excess of the applicable area rate.

For the applicant to carry its burden of proof as to the justness and reasonableness of the proposed rate, it must establish, by credible and relevant evidence, (1) the direct and indirect costs, including the cost of capital funds to be invested, reasonably anticipated in connection with the drilling program on the leases dedicated herein; (2) the reserves reasonably anticipated as recoverable; and (3) the deliverability reasonably anticipated.

Cost findings from the latest area rate decision may be incorporated by reference in this proceeding and may be considered as relevant evidence in determining a just and reasonable rate. *Stingray Pipeline Company, et al.*, Opinion No. 693, Docket No. CP73-27, *et al.*, issued May 6, 1974.

This hearing is not the proper forum for the relitigation of the propriety of is now before the Court of Appeals, see the Section 2.75 procedures; that matter n. 3, *supra*. This hearing will be addressed solely to the issues of public convenience and necessity, and the justness and reasonableness of the particular sales and rates herein proposed.

No intervenor has questioned Transmission's need for the additional natural gas supplies that will be available to it as a result of these purchases.

The Commission finds:

(1) It is necessary and in the public interest that the above-docketed proceeding be set for hearing.

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[1] 15 U.S.C. sec. 717, *et seq.* (1970).
[2] 18 CFR 2.75.
[3] *Statement Of Policy Relating To Optional Procedure For Certificating New Producer Sales Of Natural Gas*, Docket No. R-441, 48 F.P.C. 218 (issued August 3, 1972), appeal pending *sub nom. John E. Moss, et al.* v. *F.P.C.*, No. 72-1837 (D.C. Cir.).

(2) It is desirable and in the public interest to allow the above-named petitioners to intervene in this proceeding.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14 and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act (18 CFR, Chapter I), Docket No. CI74–530 is set for the purpose of hearing and disposition.

(B) A public hearing on the issues presented by the application herein shall be held commencing on June 18, 1974, 10 a.m., e.d.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

(C) A Presiding Law Judge to be designated by the Chief Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding pursuant to the Commission's Rules of Practice and Procedure.

(D) Exploration and any intervenor supporting the application shall file their direct testimony and evidence on or before May 31, 1974. All testimony and evidence shall be served upon the Presiding Judge, the Commission Staff, and all parties to this proceeding.

(E) The Commission Staff, and any intervenor opposing the application, shall file their direct testimony and evidence on or before June 7, 1974. All testimony and evidence shall be served upon the Presiding Judge, and all other parties to this proceeding.

(F) All rebuttal testimony and evidence shall be served on or before June 14, 1974. All parties submitting rebuttal testimony and evidence shall serve such testimony upon the Presiding Judge, the Commission Staff, and all other parties to the proceeding.

(G) The above-named petitioners are permitted to intervene in this proceeding subject to the rules and regulations of this Commission; *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interest as specifically set forth in said petition for leave to intervene; *And provided, further,* That the admission of such interest shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(H) The contracts between Exploration and Transmission dated August 24, 1973, are accepted for filing as of the date of initial delivery and for Vermilion Block 147, Vermilion Block 201, East Cameron Block 222, and West Cameron Block 513 are designated, respectively, as Texas Eastern Exploration Company FPC Gas Rate Schedules Nos. 1, 2, 3, and 4.

By the Commission.[1]

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11849 Filed 5–22–74;8:45 am]

[1] Commissioner Smith, concurring, filed a separate statement, filed as part of the original document.

[Docket Nos. CP73–297, CP74–72]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Petition To Amend

MAY 16, 1974.

Take notice that on April 29, 1974, Texas Eastern Transmission Corporation (Petitioner), P.O. Box 2521, Houston, Texas 77001, filed in Docket Nos. CP73–297 and CP74–72 a petition to amend the Commission's orders issued in said dockets on December 10, 1973, and February 27, 1974, respectively, pursuant to section 7(c) of the Natural Gas Act, which orders authorized exchanges of natural gas between Petitioner and Natural Gas Pipeline Company of America (Natural). Petitioner requests authorization to construct and operate an alternate redelivery point for said exchanges of gas in lieu of redelivery facilities authorized to be constructed and operated in the orders, all as more fully set forth in the petition to amend, which is on file with the Commission and open to public inspection.

In order to exchange up to 40,000 Mcf per day of natural gas, Petitioner was authorized by the orders of December 10, 1973, and February 27, 1974, to construct tap and side valve facilities at the intersection of Natural's 6-inch Bailey's Prairie Lateral pipeline and Petitioner's 30-inch McAllen line in Brazoria County, Texas, at a total estimated cost of $20,700. Due to experience derived from emergency deliveries through the existing facilities at said intersection, Petitioner states that it became apparent that the capacity restrictions on Natural's 6-inch Bailey's Prairie Lateral would require another delivery point.

Petitioner now proposes to operate, in lieu of the previously authorized facilities, which have not yet been constructed, facilities to permit the exchange of natural gas at the intersection of Natural's 12-inch Chocolate Bayou Lateral and Petitioner's 30-in McAllen line in Brazoria County. Petitioner states that it commenced emergency operations at the Chocolate Bayou interconnection, within the contemplation of Section 157.22 of the Regulations under the Natural Gas Act (18 CFR 157.22), on April 7, 1974. Estimated cost of the required facilities was $9,100 to be reimbursed by Natural.

Any person desiring to be heard or to make any protest with reference with said petition to amend should on or before June 7, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11870 Filed 5–22–74;8:45 am]

[Docket No. CP74–279]

TEXAS GAS TRANSMISSION CORP.

Notice of Application

MAY 16, 1974.

Take notice that on April 29, 1974, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP74–279, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon approximately 4.2 miles of its Lawrenceville 4-inch pipeline which was constructed in 1940 and 16.3 miles of its Robinson 4-inch pipeline which was constructed in 1941, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon in place a 16.3-mile portion of its Robinson 4-inch pipeline located in the states of Illinois and Indiana and a 4.2-mile portion of its Lawrenceville 4-inch pipeline located in the State of Illinois. The application states that the facilities to be abandoned have deteriorated to the point where they cannot be operated and meet the requirements of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671, *et seq.*) and the regulations promulgated thereunder. Applicant further states that the service presently being rendered through these facilities can continue to be rendered through pipelines adjacent to the facilities proposed to be abandoned.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 10, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). 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.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed

abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11867 Filed 5-22-74;8:45 am]

[Docket No. CP74-284]

TEXAS GAS TRANSMISSION CORP.

Notice of Application

MAY 16, 1974.

Take notice that on May 7, 1974, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP74-284 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to render natural gas storage service to certain of its customers, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant proposes to render natural gas storage service to its customers at a rate of 13 cents per Mcf of gas for the period May 15, 1974, through April 1, 1975, as follows:

Customer:	*Storage service (thousand cubic feet at 15.025 lb./in.² a)*
Columbia Gas Transmission Corp	1,397,197
Consolidated Gas Supply Corp.	641,182
Louisville Gas & Electric Co.	1,399,096
Memphis Light, Gas & Water Division	1,399,200
Southern Indiana Gas & Electric Co.	457,448
Western Kentucky Gas Co.—zone 2	321,400
Western Kentucky Gas Co.—zone 3	500,000
Total	6,115,523

The several agreements establishing the terms of the storage arrangements provide that the various customers will deliver to Applicant the necessary volumes of natural gas during the period from May 15, 1974, through October 31, 1974, for redelivery to the various customers during the period from November 1, 1974, through April 1, 1975, at the sole discretion of Applicant; provided, however that such volumes shall be reduced by 1/160th for each day after May 15, 1974, that Seller has not received appropriate authorization from the Commission.

Said storage agreements further stipulate that the daily rate of redelivery shall not exceed the contract demand of the various customers as set forth in the various service agreements previously entered into by Applicant and said customers.

Applicant states that no new facilities are to be constructed for the proposed service and that no new sales of natural gas are to be made.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). 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.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11869 Filed 5-22-74;8:45 am]

[Docket No. RP73-69]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Proposed Changes in Rates and Charges

MAY 15, 1974.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on May 3, 1974, tendered for filing to its FPC Gas Tariff, First Revised Volume No. 1, Seventh Revised Sheet No. 5, to become effective February 1, 1974. Transco states that by this filing it proposes to reduce its charges under its Rate Schedule S-2 (Oakford Storage Service) to track the rate decrease to Transco from Texas Eastern Transmission Corporation (Texas Eastern) under the latter's Rate Schedule X-28.

The Commission by its order issued November 26, 1973 in Docket No. RP72-98 approved Texas Eastern's Second Revised Stipulation and Agreement and on January 16, 1974 accepted Texas Eastern's revised tariff sheets for filing reflecting the approved settlement rates. Transco states that this rate change is in accordance with the tracking procedures prescribed in Article VII of the amended settlement agreement approved by Commission Order issued April 5, 1974 in Docket No. RP73-69.

Transco requests that the proposed rate changes become effective, without suspension, on February 1, 1974. Transco states that it commenced February 1, 1974 to bill its customers under Rate Schedule S-2 at rates reflecting Texas Eastern's settlement rates and has refunded to its customers purchasing storage service under its Rate Schedule S-2 (1) the refund received from Texas Eastern, including interest, of $835,204.59 for the period July 14, 1972 through October 31, 1973 and (2) the difference between the amounts billed by Texas Eastern and the amount collected by Transco for the period November 1, 1973 through January 31, 1974 of $152,190.37.

Transco also states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 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 May 29, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11852 Filed 5-22-74;8:45 am]

[Docket No. RP73-69]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Proposed Changes in Rates and Charges

MAY 15, 1974.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on May 3, 1974, tendered for filing with the Federal Power Commission tariff sheets which incorporate the settlement rates pursuant to the amended settlement agreement which was approved by the Commission's Order issued April 5, 1974. Transco states that those sheets are being issued in accordance with such Order.

As stated in its filing, Transco states that it will make refunds to its customers on or about May 15, 1974 for amounts collected in excess of the settlement rates plus interest at 7 percent per annum

from date of collection to date of refund.

Transco also states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 29, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11853 Filed 5-22-74;8:45 am]

[Docket No. RP73-3]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Proposed Changes in Rates and Charges

MAY 15, 1974.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on May 3, 1974, tendered for filing to its FPC Gas Tariff, First Revised Volume No. 1, Eighth Revised Sheet No. 5 and Fifth Revised Sheet No. 6. Transco states that the tariff sheets are being filed to reflect the settlement rates approved in Transco's PGA rate increase filing in Docket No. RP73-69 and approved by Commission letter order in Dockets Nos. RP73-3 and RP73-69. The approved settlement rates would permit a net increase of 0.6 cents per Mcf in the commodity or delivery charge.

Transco requests waiver of Section 154.51 of the Regulations under the Natural Gas Act to permit an effective date of April 1, 1974. Transco also states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 24, 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 the filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11850 Filed 5-22-74;8:45 am]

[Dockets Nos. RP74-83, RP74-20 and RP70-13]

UNITED GAS PIPE LINE CO.

Order Severing Issue and Consolidating Proceedings

MAY 16, 1974.

On March 13, 1974, the Commission staff moved to sever from Docket No. RP74-20 the issue of the cost of gas produced by Pennzoil Producing Company (Pennzoil), being delivered to United Gas Pipe Line Company (United), during the applicable test year in that docket. Staff further moved to consolidate Docket No. RP74-20 with Docket No. RP70-13 for the limited purpose of determining the proper cost of Pennzoil's gas delivered to United during the applicable test year in Docket No. RP74-20. The staff cited United Gas Pipe Line Company, Opinion No. 682, Docket No. RP70-13, issued January 11, 1974, in advocating that the proposed procedural amendment would reduce the unnecessary duplication that would otherwise occur in the proceedings.

In the aforementioned Opinion, the Commission determined that the price of gas produced by Pennzoil from leases acquired prior to October 7, 1969, which Pennzoil sells to its affiliate, United, should be priced on a cost basis for the purpose of calculating United's cost of service. The Commission remanded the proceeding for the purpose of determining the cost of the gas Pennzoil delivered to United during the periods covered in Dockets Nos. RP70-13, RP71-41, and RP72-75.

The Commission, by order issued November 6, 1973, in Docket No. RP74-20, accepted for filing proposed tariff sheets that would effect a rate increase of approximately $34.9 million for jurisdictional sales and services rendered by United Gas Pipe Line Company. It suspended the proposed increase in rates for a period of five months and set the matter for hearing.

On April 15, 1974, subsequent to the staff motion, United tendered for filing tariff sheets containing rates designed to achieve an increase in jurisdictional revenues of $82.9 million annually. The proposed increased rates are above those rates proposed in Docket No. RP74-20. On May 9, 1974, the Commission suspended the proposed increase in rates for the full statutory period setting the matter for hearing.

We are of the opinion that because of the issues involved it is appropriate and in the public interest to consolidate these proceedings for hearing as hereinafter ordered.

The Commission finds: It is in the public interest to sever from Docket Nos. RP74-20 and RP74-83 the issue of the cost of Pennzoil gas delivered to United during the applicable test year and to consolidate these proceedings with Docket No. RP70-13 for the limited purpose of determining the aforementioned cost.

The Commission orders: (A) The motion is granted and the issues of cost in both Docket Nos. RP 74-20 and RP74-83 are hereby severed from those proceedings and are consolidated with Docket No. RP70-13 for hearing and disposition.

(B) The schedule for service of evidence in these consolidated proceedings shall be fixed by the presiding Administrative Law Judge in accordance with Opinion No. 682, Docket No. RP70-13, issued January 11, 1974.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11854 Filed 5-22-74;8:45 am]

[Dockets Nos. RP74-83 and RP74-20]

UNITED GAS PIPE LINE CO.

Order Accepting Proposed Tariff Sheets

MAY 16, 1974.

On April 15, 1974, United Gas Pipe Line Company (United) filed with the Commission proposed changes in its FPC Gas Tariff, First Revised Volume No. 1. The proposed change would increase jurisdictional revenues by approximately $82.9 million, based upon the 12 month period ending January 31, 1974. United states approximately $27.7 million of the proposed increase reflects increased non-gas costs, while approximately $55.2 million reflect gas costs which, absent the filing, would be recovered through United's purchased gas adjustment provision. United proposes an effective date of June 1, 1974, for the changes.

United indicates that the proposed rate changes are necessitated by: (1) costs transporting gas purchased from POGO, West Cameron Block 587, to United's pipeline at Erath, Louisiana, (2) interest on producer loans, (3) increases in advance payments to producers, (4) an increase in overall rate of return to maintain the company's financial stability, and (5) increases in cost of purchased gas.

Other changes proposed by United in the tariff include (1 establishing a three-part rate for sales with purchased gas cost set out as a separate charge, (2) replacing pipeline Rate Schedules PL-C and PL-J with Rate Schedule PL-N, and (3) eliminating the 1¼¢ zone differential between the Central and Jackson Rate Zones. Also, the PLE-C and PLE-J Rate Schedules were combined into a single Rate Schedule PLE-N.

United indicates that the demand and commodity components of the rates have been designed to directly recover the allocated costs with fixed transmission cost classified 75 percent as commodity cost and 25 percent as demand cost, ordered in Opinion Nos. 671 and 671-A. All variable costs, according to United, were classified as commodity cost and allocated on annual volume.

The filing was noticed on April 18, 1974, with protests and petitions to intervene due on or before May 10, 1974. Timely petitions to intervene were received from: Alabama Gas Corporation, Aluminum Company of America, Arkansas Louisiana Gas Company, Boston Gas Company, et al., Consolidated Natural Gas Service Company, Inc., Entex, Inc., Florida Gas Transmission, Illinois Power

Company, Laclede Gas Company, Memphis Light, Gas and Water Division, City of Memphis, Tennessee, Mid Louisiana Gas Company, Mississippi River Transmission Corporation, Mississippi Valley Gas Company, Mobil Gas Service Corporation, Natural Gas Pipeline Company of America, New Orleans Public Service, Inc., Peoples Natural Gas Company, Philadelphia Electric Company, The Polaris Corporation, Public Service Electric and Gas Company, Southern Natural Gas Company, Texas Gas Transmission, United Municipal Distributors Group, Willmut Gas and Oil Company. Notices of intervention were filed by the Louisiana Department of Conservation and the Public Service Commission of the State of New York. We shall permit all of the foregoing petitioners to intervene.

Our review of United's filing indicates that it raises certain issues which may require development in an evidentiary hearing. We shall therefore suspend the proposed rate increase for the full statutory period and direct that a hearing be held on the justness and reasonableness of the rates proposed therein.

We further note that, prior to this filing, United, on September 21, 1973, filed a proposed rate increase in Docket No. RP74–20. That proposal was suspended until April 6, 1974, and set for hearing by order of November 6, 1973, and further permitted to be amended by order of May 7, 1974. That rate proposal raises certain issues of law and fact which are substantially the same as are raised in the instant docket, and we shall, accordingly, consolidate Docket Nos. RP74–83 and RP74–20 for purposes of hearing and decision. The procedural dates presently set in Docket No. RP74–20 shall be revised as set forth below.

The Commission finds: (1) The rates proposed by United have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in United's FPC Gas Tariff as proposed to be amended in Docket No. RP74–83, and that the revised tariff sheets filed therein be suspended, and the use thereof deferred as hereinafter ordered.

(3) Good cause exists to consolidate Docket Nos. RP74–83 and RP74–20 for purposes of hearing and decision.

(4) Good cause exists to permit the above mentioned petitioners to intervene in this proceeding.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, and the Commission's rules and regulations, a public hearing shall be held on October 31, 1974, in a hearing room of the Federal Power Commission, Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in United's FPC Gas Tariff, as proposed to be amended in Docket No. RP74–83.

(B) Pending such hearing and decision thereon, the proposed tariff sheets in United's First Revised Volume No. 1 of its FPC Gas Tariff are suspended and the use thereof deferred until November 1, 1974, and until such time as they are made effective in the manner provided in the Natural Gas Act.

(C) The proceedings in Docket Nos. RP74–83 and RP74–20 are hereby consolidated for purposes of hearing and decision and the procedural dates presently established in Docket No. RP74–20 are hereby superseded by the procedural dates herein established for the consolidated proceeding.

(D) On or before September 13, 1974, the Commission staff shall serve its prepared testimony and exhibits. Any prepared testimony and exhibits of the intervenors shall be served on or before October 4, 1974. Any rebuttal evidence by United shall be served on or before October 18, 1974.

(E) 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 initiated by this order, and shall conduct such hearing in accordance with the Natural Gas Act, the Commission's rules and regulations, and the terms of this order.

(F) The aforementioned petitioners for intervention shall be permitted to intervene in this proceeding, subject to the Commission's rules and regulations; Provided, however, that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any orders entered in this proceeding and, Provided, further, that the participation of such intervenor shall be limited to matters affecting rights and interest specifically set forth in its petition to intervene.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11855 Filed 5–22–74;8:45 am]

[Docket No. E–8746]

STATE OF VERMONT PUBLIC SERVICE BOARD AND POWER AUTHORITY OF THE STATE OF NEW YORK

Filing Complaint

MAY 16, 1974.

On April 22, 1974, the State of Vermont Public Service Board (PSB) filed a complaint against the Power Authority of the State of New York (PASNY), wherein it is requested that the Commission resolve certain disputes that have arisen between PSB and PASNY with regard to PASNY's license under project No. 2216, Niagara Power Project. The substance of PSB's complaint relates to its desire to purchase additional power from PASNY's Niagara Project. PSB specifically requests that the Commission investigate the matters addressed in its complaint, and determine the power allocation that should be made available to PSB by PASNY.

Any person desiring to be heard or to make any protest with reference to the PSB's complaint should on or before June 10, 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). Any person or persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. The complaint referred to above is on file with the Commission and is available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11847 Filed 5–22–74;8:45 am]

[Project No. 2197]

YADKIN, INC.

Application for Change in Land Rights

MAY 15, 1974.

Public notice is hereby given that application for change in land rights was filed January 18, 1974, under the Federal Power Act (16 U.S.C. 791a–825r) by Yadkin, Inc. (Correspondence to: LeBoeuf, Lamb, Leiby & MacRae, Attorneys for Yadkin, Inc., One Chase Manhattan Plaza, New York, New York 10005) for Yadkin Project No. 2197, located on the lower section of Yadkin–Pee Dee River in Stanly, Montgomery, Davidson and Roan Counties, North Carolina. The location of the change in land rights would be located in Salisbury Township, Rowan County, North Carolina near Salisbury, North Carolina.

Yadkin, Inc. requests Commission approval to grant two 68 foot wide rights-of-way to Duke Power Company for construction of the 100 kV Buck Steam Plant-Statesville Road transmission line. This line would proceed westerly across the Grants Creek arm of the High Rock Development Reservoir (Project No. 2197) and then turn southwesterly generally paralleling and crossing portions of the irregular shoreline along Grants Creek. The westerly crossing would average 588 feet long and would parallel an existing Piedmont Natural Gas Line. The southwesterly crossing adjacent to the shoreline would average 420 feet. No transmission line towers would be constructed on project lands. The minimum vertical clearance above the reservoir would be 45 feet.

Any person desiring to be heard or to make protest with reference to said application should on or before June 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11857 Filed 5-22-74;8:45 am]

FEDERAL RESERVE SYSTEM

CHARTER BANKSHARES, INC.

Formation of Bank Holding Co.

Charter Bankshares, Inc., Northfield, Illinois, 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 80 percent or more of the voting shares of Bank of Winfield, Winfield, Illinois. 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 Chicago. 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 June 10, 1974.

Board of Governors of the Federal Reserve System, May 16, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-11791 Filed 5-22-74;8:45 am]

CONIFER GROUP INC.

Proposed Acquisition of Conifer Personnel Resources Inc.

The Conifer Group Inc., Worcester, Massachusetts, 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 Conifer Personnel Resources Inc., Worcester, Massachusetts. Notice of the application was published on April 5, 1974, in the Valley News Dispatch, The Providence Journal and Evening Post and the Manchester Union Leader, newspaper circulated in Tarentum, Pennsylvania, Providence, Rhode Island and Manchester, New Hampshire, respectively; April 6, 1974, in The Burlington Free Press, the Portland Press Herald and The Daily Press, newspapers circulated in Burlington, Vermont, Portland, Maine and McKeesport, Pennsylvania, respectively; April 9, 1974, in the Boston Herald American and the Albany Times Union, newspapers circulated in Boston, Massachusetts, and Colonie, New York, respectively.

Applicant states that the proposed subsidiary would engage in the activities of furnishing management consulting advice on a fee basis to non-affiliated banks with respect to personnel operations, including recruiting, training and development, man-power planning, organization development and skills, evaluation and compensation and the conduct of related seminars and workshops. 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 New York.

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 June 12, 1974.

Board of Governors of the Federal Reserve System, May 15, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-11787 Filed 5-22-74;8:45 am]

FBT BANCORP, INC.

Order Approving Acquisition of Cromwell Capital Corp.

FBT Bancorp, Inc., South Bend, Indiana, 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 Cromwell Capital Corporation ("Cromwell"), Plymouth, Indiana, a company that engages in the activities of making, acquiring and servicing of loans or other extensions of credit for personal, family, household, or commercial purposes; and selling credit life and credit accident and health insurance directly related to such extensions of credit. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a) (1), (3), and (9)). Cromwell is also engaged in acting as agent with regard to property and casualty insurance, and is engaged in selling Investment Notes and Subordinated Bonds to the public. Applicant has committed to terminate these activities immediately upon consummation of the acquisition, should this application be approved.

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 3864). The time for filing comments and views has expired, and none has been timely received. The Board has considered this application in light of the factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)).

Applicant's only banking subsidiary, First Bank & Trust Company of South Bend ("Bank"), South Bend, Indiana, controls deposits of $204.5 million,[1] representing 1.5 per cent of the total deposits in commercial banks in the State, and is the seventh largest banking organization in Indiana. In addition to Bank, Applicant controls a nonbanking subsidiary engaged in leasing personal property on a full-payout basis, and FBT Capital Corporation ("Capital"), a recently formed nonbanking subsidiary engaged in consumer finance activities and the sale of credit life and credit accident and health insurance. Bank also engages in consumer lending and acts as agent in the sale of credit life and credit accident and health insurance directly related to its extensions of credit.

Cromwell, through two wholly owned subsidiaries, makes direct cash loans to individuals, purchases installment sales contracts from retailers, and acts as agent in the sale of credit life and credit accident and health insurance directly related to such extensions of credit. Cromwell operates six offices, with total receivables of $3.8 million (as of September 30, 1973).

Both Bank and Capital operate in the South Bend area while all of Cromwell's six finance company offices are located outside of the South Bend area, in adjacent counties, and there appears to be no significant existing competition between Applicant's present subsidiaries and any of Cromwell's offices.

Applicant and Cromwell are presently controlled by the same individual, and Applicant's proposal essentially represents a conversion of an affiliation exercised through an individual to a formal corporate relationship. This same individual also controls three other firms that provide consumer credit in the area. There is no evidence in the record to indicate that any of these affiliations would be terminated in the future. In view of these relationships, no effective competition exists between any of these institutions, nor can significant competition

[1] All banking data are as of June 30, 1973.

be expected to develop between any of them in the future. Accordingly, the Board is of the view that approval of the application, insofar as it relates to Cromwell's consumer finance and sales finance activities, would not have any significant adverse effects on existing or potential competition in any relevant area.

Due to the limited nature of Cromwell's insurance activities, it does not appear that Applicant's acquisition of these insurance activities would have any significant effect on existing or future competition.

It is anticipated that following consummation of the proposed acquisition, Cromwell will provide improved services to its customers such as automated customer billing and single payment cash loans payable at lower interest rates. Further, Applicant can be expected to provide Cromwell with increased working capital and additional expertise in the area of consumer lending. There is no evidence in the record indicating that consummation of the proposed acquisition would result in any undue concentration of resources, unfair competition, conflicts of interests, 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 Chicago.

By order of the Board of Governors,[2] effective May 13, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-11784 Filed 5-22-74;8:45 am]

FIRST UNION INC.

Order Approving Acquisition of Preferred Life Insurance Co.

First Union, Incorporated, St. Louis, Missouri, 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 Preferred Life Insurance Company ("Company"), St. Louis, Missouri, a company which is presently a trusteed affiliate of Applicant's lead bank, First National Bank in St. Louis, St. Louis, Missouri. Company engages in the underwriting, as reinsurer, of credit life and credit accident and health insurance in connection with extensions of credit by Applicant's lead bank. Applicant proposes that Company would also underwrite, as reinsurer, credit life and credit accident and health insurance in connection with extensions of credit by Applicant's other banking subsidiaries if this application is approved and would also offer joint credit life insurance in connection with extensions of credit. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(10)).

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 11225). 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 public interest factors set forth in § 4(c)(8) of the Act (12 U.S.C. 1843(c)).

Applicant controls 16 banks with aggregate deposits of $1.1 billion, representing about 8 per cent of total deposits in commercial banks in Missouri.[1] Company, which had total assets of $393,000 as of September 30, 1973, is qualified to directly underwrite insurance only in Arizona, and its activities will be limited to acting as reinsurer of credit life and credit accident and health insurance policies made available in connection with extensions of credit by Applicant's banking subsidiaries in Missouri. Such insurance will be directly underwritten by an insurer qualified to underwrite in Missouri and will thereafter be assigned or ceded to Company under a reinsurance agreement. Since the proposed transaction represents merely a change in Applicant's ownership of Company from indirect to direct ownership, the proposal would have no adverse effects on competition.

Credit life and credit accident and health insurance is generally made available by banks and other consumer lenders and is designed to insure repayment of a loan in the event of death or disability of a borrower. Applicant also proposes to underwrite joint credit life insurance. The Board has permitted such insurance to be underwritten by subsidiaries of bank holding companies when both of the insured parties are comakers or cosigners of a note issued in connection with an extension of credit. Applicant will limit its underwriting of joint credit life insurance to such instances.

In connection with its addition of credit life and credit accident and health underwriting to the list of permissible activities for bank holding companies, the Board has stated that

> To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally, such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service.

Applicant has stated that it will provide single and joint credit life insurance at a rate 15 percent below the maximum rate authorized by Missouri law and will offer credit accident and health insurance at a 5 percent reduction below the maximum rates embodied in State law. The Board believes that the reduction of price of credit life and credit accident and health insurance policies offered by Applicant is a consideration favorable to the public interest. The Board concludes, therefore, that such public benefits, in the absence of any evidence in the record indicating the presence of any adverse statutory factors, provide support for approval of the application.

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. The determination is subject to 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 insure 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 executed 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 St. Louis pursuant to delegated authority.

By order of the Board of Governors,[2] effective May 15, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-11786 Filed 5-22-74;8:45 am]

GENERAL BANCSHARES CORP.

Acquisition of Bank

General Bancshares Corporation, St. Louis, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of Central Bank of Clayton, Clayton, Missouri, a proposed new bank.

[2] Voting for this action: Vice Chairman Mitchell and Governors Bucher, Holland and Wallich. Absent and not voting: Chairman Burns and Governors Brimmer and Sheehan.

[1] All banking data are as of June 30, 1973, and represent bank holding company acquisitions approved by the Board through April 30, 1974.

[2] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Bucher, and Wallich. Absent and not voting: Chairman Burns and Governors Sheehan and Holland.

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 St. Louis. 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 June 13, 1974.

Board of Governors of the Federal Reserve System, May 16, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-11789 Filed 5-22-74;8:45 am]

MANUFACTURERS HANOVER CORP.

Proposed Acquisition of Ritter Financial Corp.

Manufacturers Hanover Corporation, New York, New York, 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 Ritter Financial Corporation, Wyncote, Pennsylvania. Notice of the application was published on various dates during the first week in April, 1974, in newspapers of general circulation in approximately seventeen cities in Pennsylvania, five cities in New Jersey, four cities in West Virginia, four cities in Virginia, four cities in Connecticut and three cities in North Carolina.

Applicant states that the proposed subsidiary would engage in the activities of: (a) All facets of a consumer finance business including without limitation making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a finance company; (b) acting as agent or broker for the sale of credit related life and credit accident and health insurance and consumer credit related property (including nonfiling insurance designed to protect personal property in which Applicant has a security interest against security interests which might be perfected by third parties) to extensions of credit made or acquired by Applicant and/or its direct and indirect subsidiaries; (c) reinsurance of credit life and credit accident and health insurance which is related to extensions of credit made or acquired by Ritter Financial Corporation and/or its direct or indirect subsidiaries; (d) servicing loans and other extensions of credit for any person. 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 New York.

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 June 13, 1974.

Board of Governors of the Federal Reserve System, May 16, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-11788 Filed 5-22-74;8:45 am]

SOUTHERN BANCORPORATION

Acquisition of Bank

Southern Bancorporation, Birmingham, Alabama (formerly The Alabama Financial Group, Inc.) has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of the successor by merger to Farmers Bank, Anderson, Alabama. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than June 17, 1974.

Board of Governors of the Federal Reserve System, May 16, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-11790 Filed 5-22-74;8:45 am]

TEXAS COMMERCE BANCSHARES, INC.

Order Approving Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, 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 100 per cent of the voting shares (less directors' qualifying shares) of Southeast Bank, Houston, 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)).

Applicant, the fourth largest banking organization in Texas, controls 14 banks with deposits of $1.8 billion, representing 5.2 per cent of the total commercial bank deposits in the State.[1] Acquisition of Bank ($9 million deposits) would not result in a significant increase in the concentration of banking resources in Texas.

Bank, which is located about eight miles southeast of downtown Houston, operates in the Houston banking market.[2] Of the 162 banks operating in the market, Bank is the 115th largest bank with about .1 of one percent of the market deposits. Applicant is the second largest banking organization in the Houston market with nine subsidiary banks controlling 16.2 percent of the market deposits. Five of Applicant's subsidiaries in the Houston market were formed de novo and had no reported deposits as of June 30, 1973. Although Applicant and Bank operate in the same market, consummation of the proposal would not result in the elimination of significant existing competition. Applicant's subsidiary bank closest to Bank is located eight miles northwest of Bank, and neither bank derives any significant amount of business from the service area of the other. The same conclusion applies with respect to the relationship between Bank and Applicant's other subsidiaries in the market. Moreover, it appears unlikely that such competition would develop in the future. Since its formation in 1971, Bank has been closely associated with Applicant, and there is no evidence to indicate that such relationship would be terminated if the present proposal were denied. The prospect of competition developing between Applicant and Bank is further diminished by the distances separating Applicant's subsidiaries and Bank, the large number of competitors in the market, and the restriction placed on branching by State law. On the basis of the record, therefore, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and prospects of Applicant, its subsidiary banks, and Bank appear satisfactory and are consistent with approval of the application. Applicant proposes to expand the range of banking services offered through Bank and to provide ad-

[1] All banking data are as of June 30, 1973, and reflect all holding company formations and acquisitions approved by the Board through March 31, 1974.

[2] The Houston banking market is approximated by the Houston SMSA (Standard Metropolitan Statistical Area), which encompasses Harris County and five neighboring counties.

ditional expertise in business and consumer financing within Bank's service area. These considerations relating to the convenience and needs of the communities to be served lend weight toward approval of the application. 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 May 15, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-11785 Filed 5-22-74;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR RESEARCH, AD HOC TASK GROUP NO. 3

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), notice is hereby given of a meeting of Ad Hoc Task Group No. 3 of the Advisory Committee for Research to be convened at 9 a.m. on June 13 and 14, 1974, in Room 321 at 1800 G Street, NW., Washington, D.C. 20550.

The purpose of the ad hoc task groups is to provide the Committee a mechanism to consider numerous specific topics of interest to the full Committee.

The agenda for the meeting of Ad Hoc Task Group No. 3 will be devoted to discussion of the process of evaluation and the support of multidisciplinary proposals.

The meeting shall be open to the public. Individuals wishing to attend should inform Mr. Leonard F. Gardner, Special Assistant, Directorate for Research, by mail (Room 320, 1800 G Street, NW, Washington, D.C. 20550) or by telephone (202-632-4278) prior to the meeting.

Summary minutes of the meeting may be obtained from the Management Analysis Office, Room K-720, 1800 G Street, NW, Washington, D.C. 20550.

T. E. JENKINS,
Assistant Director for Administration.

MAY 10, 1974.

[FR Doc.74-11906 Filed 5-22-74;8:45 am]

ADVISORY PANEL FOR SYSTEMATIC BIOLOGY

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), notice is hereby given of a meeting of the Advisory Panel for Systematic Biology to be held at 9 a.m. on June 6 and 7, 1974, in Room 338 at 1800 G Street, NW, Washington, D.C. 20550.

The purpose of the panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. The agenda will be devoted to the review and evaluation of research proposals.

This meeting is concerned with matters which are within the exemptions of 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of P.L. 92-463.

Individuals requiring further information about this panel may contact Mr. William E. Sievers, Acting Program Director, Systematic Biology Program, Room 331, 1800 G Street, NW, Washington, D.C. 20550.

ELDON D. TAYLOR,
Acting Assistant Director for Administration.

MAY 9, 1974.

[FR Doc.74-11905 Filed 5-22-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS

Notice of Public Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Business Advisory Council on Federal Reports to be held in Room 2010, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. on June 11, 1974, at 9:30 a.m.

The purpose of the meeting is to conduct Council business such as the Treasurer's Report, Council budget, and reports of various Committees; to hear remarks from the Deputy Associate Director for Statistical Policy; and to receive reports of recent actions by the Office of Management and Budget which affect the burden on business firms of reporting to Federal agencies. The meeting will be open to public observation and participation.

Anyone wishing to participate should contact the Deputy Associate Director for Statistical Policy, Room 10202, New Executive Office Building, Washington, D.C. 20503, Telephone (202) 395-3730.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.74-11885 Filed 5-22-74;8:45 am]

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 May 20, 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 OFFICE

Family Driving Log and Questionnaire; Form ____, Single time, Weiner, Randomly selected families in 7 cities.

Retail Store Energy/Hours Questionnaire; Form ____, Single time, Weiner, Extended hour busses in 7 major cities.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control, Talc Workers Medical Questionnaire; Form ____, Single time, Ellett, Individuals working occupationally with talc.

DEPARTMENT OF LABOR

Manpower Administration; CETA—Operating Plans, Quarterly Progress Reports and Client Characteristics, Forms MA 2-202, 203, MA 5-13-134-136, Occasional, HRD/Caywood, State and local agencies.

TENNESSEE VALLEY AUTHORITY

Timber Harvesting Management Training Program Questionnaire; Form ____, Annual, Raynsford, Participants of program, 1972-76.

REVISIONS

DEPARTMENT OF COMMERCE

Economic Development Administration; Outlay Report and Request for Reimbursement for Construction Programs, Form ED 113, Monthly, Sheftel, Recipient of EDA financial assistance.

National Bureau of Standards; Survey of Radioactivity Standards Needs, Forms NBS 951, Occasional, Caywood, Purchasers of the standards.

EXTENSIONS

DEPARTMENT OF COMMERCE

Economic Development Administration:

EDA Loan Request, Form ED 101 Supp. A, Occasional, Evinger, Applicants.

Relocation and Land Acquisition Certificate, Form ED 168, Occasional, Sheftel (x).

Statement of Compliance, Form ED 162, Weekly, Sheftel (x).

Bid for Unit Price Contracts, Form ED 118, Occasional, Sheftel (x).

Schedule of Amounts for Contract Payments, Form ED 111, Occasional, Sheftel (x).

Construction Progress Chart, Form ED 144, Monthly, Sheftel (x).

Periodic Estimates for Partial Payment, Form ED 112, Occasional, Sheftel (x).

Contract Change Order, Form ED 114, Occasional, Sheftel (x).

[3] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Bucher and Wallich. Absent and not voting: Chairman Burns and Governors Sheehan and Holland.

Certification of Bidder Regarding Equal Employment Opportunity, Form ED 119, Occasional, Sheftel (x).

Certification by Proposed Subcontractor Regarding Equal Employment Opportunity, Form ED 120, Occasional, Sheftel (x).

Supplemental General Conditions, Form ED 127, Monthly, Sheftel.

Economic Development Administration, Certificate as to Project Sight, Rights-of-Way, and Easements, Form ED 152, Occasional, Sheftel (x).

Request for Reimbursement of Relocation Costs incurred Pursuant to P.L. 91-646, Form ED 169, Occasional, Sheftel (x).

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-12090 Filed 5-22-74;11:40 am]

RAILROAD RETIREMENT BOARD

RAILROAD RETIREMENT SUPPLEMENTAL ANNUITY PROGRAM

Determination of Quarterly Rate of Excise Tax

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. § 3221(c)) as amended by Section 5(a) of Public Law 91-215, the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning July 1, 1974, shall be at the rate of seven and one-half cents.

Dated: May 17, 1974.

By Authority of the Board.

[SEAL] R. F. BUTLER,
Secretary of the Board.

[FR Doc.74-11768 Filed 5-22-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

ANITA LYNN COSMETICS, INC.

Notice of Suspension of Trading

MAY 14, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Anita Lynn Cosmetics, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 12:00 noon (e.d.t.) on May 14, 1974 through May 23, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-11889 Filed 5-22-74;8:45 am]

[Release No. 33-5491; File No. S7-522]

BANK-SPONSORED INVESTMENT SERVICES

Solicitation of Comments for Inquiry

Introduction. The Commission today announced that it is requesting the submission of written comments from all interested members of the public, the securities and banking industries, the securities industry's self-regulatory bodies and federal and state bank regulatory authorities and other interested governmental authorities on certain policy and legal questions associated with the variety of securities investment services currently being offered to the public by banks. The Commission believes it desirable to obtain these views at this time, in the light, among other things, of current Congressional interest in the public policy implications of increasing activity by banks in this area.

A number of these services, some of which are described below,[1] are comparable to services offered by brokers and dealers and investment advisers or investment companies. These entities generally are registered with, and subject to regulation by, the Commission under the federal securities laws. Banks, in contrast, generally have not been subjected to regulation under the federal securities laws, although, of course, it is well established that certain provisions of the federal securities laws are applicable to securities transactions involving banks.[2]

The Commission is seeking comments from all interested persons in order to determine whether the interests of investors should be afforded additional protections in connection with the bank-sponsored equity security investment services described below and, if so, what, if any, formal role the Commission should take if it appears appropriate to regulate bank securities investment services in a manner comparable to that presently prevailing for non-bank securities services.

BACKGROUND

Although banks generally have been precluded from participating in traditional underwriting activities and have been restricted in the manner and extent of brokerage services they are permitted to perform by the Banking Act of 1933 ("Glass-Steagall Act"),[3] banks traditionally have engaged in certain brokerage activities for their customers permitted by that Act.[4] Banks also have offered a variety of other securities services such as investment advice for trust accounts and municipal bond underwriting.

Recently, however, there appears to have been an increased interest on the part of banks in offering new types of brokerage and investment services to securities investors generally and, in many cases, to small investors in particular. As these bank programs and services are promoted and expanded, questions have arisen concerning whether the performance of such functions by banks should be regulated under the federal securities laws, and, if regulation is necessary or appropriate, by whom. Members of the banking community have suggested that their current activities in this area are permissible under the Glass-Steagall Act and are not subject to regulation by the Commission; with respect to the so-called automatic investment services, the Comptroller of the Currency initially has agreed.[5] Members of the securities industry, on the other hand, have suggested the converse of both propositions.[6]

LEGISLATIVE FRAMEWORK

The Commission is not charged with interpreting or administering the Glass-Steagall Act, and its inquiry into the subject matter of securities investment services offered by banks should not be viewed as an attempt to thrust the Commission into that role. Nevertheless, the framing of appropriate issues for public comment and informative responses to those issues requires some recitation of the operative statutory provisions under both the Glass-Steagall Act and the federal securities laws.

As noted, the banking legislation enacted in 1933 usually is viewed as effecting the separation of the securities business from commercial banking. Thus, Section 21 of the Glass-Steagall Act[7] specifically prohibits firms engaged in underwriting and dealing in corporate securities from engaging, at the same time, in such traditional banking functions as receiving deposits. But other provisions of the Glass-Steagall Act specifically modify this prohibition. Section 16 of the Glass-Steagall Act provides:

> The business of dealing in securities and stock by the [bank] shall be limited to purchasing and selling such securities and stock, without recourse, solely upon the order, and for the account of customers * * *.[8]

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[1] *See* pp. 4-6, *infra*.

[2] For example, banks are subject to the anti-fraud provisions of the federal securities laws. *See, Affiliated Ute Citizens of Utah* v. *United States*, 406 U.S. 128, 154 (1972); *Carroll* v. *First National Bank of Lincolnwood*, 413 F. 2d 353, 358 (C.A. 7, 1969), *certiorari denied*, 396 U.S. 1003 (1970).

[3] The provisions of the Glass-Steagall Act are codified in various sections scattered throughout Title 12 of the United States Code.

[4] For example, Section 16 of the Act permits national banks to exercise a brokerage function solely on the order and for the account of a customer. 12 U.S.C. 24.

[5] *See*, letter dated February 27, 1973, from William B. Camp, Comptroller of the Currency, to Counsel for Security Pacific National Bank. The New York Stock Exchange, among others, has requested the present Comptroller to reconsider this prior ruling. *See* letter dated September 7, 1973, from James J. Needham, Chairman, New York Stock Exchange, to James E. Smith, Comptroller of the Currency.

[6] *See, e.g.*, Allan, "The Bankers Intrude on Wall Street," *New York Times*, Nov. 18, 1973, at Sec. 3, p. 1; Koshetz, "New Episode of 'Love-Hate Story' Unfolds; Bankers and Stockbrokers in Street Theatre," *The Money Manager*, Sept. 24, 1973, at p. 56; *Wall Street Journal*, Feb. 27, 1974, at p. 36.

[7] 12 U.S.C. 378.

[8] 12 U.S.C. 24.

Based on Section 16, there is little doubt that banks can engage in securities transactions as agents for their customers. It is argued, however, that banks which engage in and actively solicit customers for a variety of investment services may be exceeding the scope of securities activities permitted under the Glass-Steagall Act.

Bank sponsorship of certain investment services also raises questions under the federal securities laws. For example, banks which offer automatic investment or individual portfolio management services, such as those described below, generally are engaged in activities which are comparable to those performed by investment advisers, as well as brokers and dealers in securities. Were it not for the specific language of certain exemptions embodied in the federal securities laws, banks offering such services clearly would be subject to regulation by the Commission, just as other investment advisers, brokers and dealers are. Thus, section 202(a)(11)(A) of the Investment Advisers Act[9] specifically excludes banks from the definition of the term "investment adviser," and sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act[10] specifically exclude banks from the definitions of the terms "broker" and "dealer," respectively. The term "bank," in turn, is defined, in substantially the same terms, in section 202(a)(12) of the Investment Advisers Act[11] and section 3(a)(6) of the Securities Exchange Act,[12] to include any banking institution organized under the laws of the United States, any member bank of the Federal Reserve System or any other banking institution if: (a) a substantial portion of its business consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks; (b) such bank is supervised and examined by state or federal banking authorities; and (c) the bank is not operated for purposes of evading the provisions of either Act. The foregoing definitions of the terms investment adviser, broker, dealer and bank are not, however, to be construed in an inflexible or rigid manner. As is made clear in the definitional sections of the federal securities laws, the foregoing definitions may be modified, altered, or even inapplicable if "the context otherwise requires."

Role of the Securities and Exchange Commission

In section 2 of the Securities Exchange Act,[13] Congress stated its conclusion that "transactions in securities as commonly conducted upon securities exchanges and over-the-counter markets are affected with a national public interest which makes it necessary to provide for regulation and control of such transactions and of practices and matters related thereto * * *." Congress created the Commission to provide this regulation and foster effective protection of investors and improvements in our capital market system. The Commission must be concerned with issues related to the protection of investors and the impact upon the capital markets.

The Commission also has the responsibility to take action itself, or to recommend action to Congress or other governmental agencies, on the basis of a carefully detailed presentation of the facts surrounding bank participation in traditional securities activities if it concludes that the regulation of banks or of any other persons participating in the securities business is not adequate for the protection of investors or is not in the public interest. This solicitation of comments is intended to provide the factual basis on which to determine whether present regulations governing bank equity security investment services are adequate.

Description of Bank-Sponsored Investment Services

1. *Dividend reinvestment plans.* Pursuant to dividend reinvestment plans, which are being offered by an increasing number of banks, shareholders of a participating corporation may request that their dividends be paid by the corporation directly to a bank which aggregate all the dividends received and purchases additional shares of the issuer corporation's common stock for the accounts of participating shareholders. Recently, this service has been expanded to permit participating shareholders to contribute additional cash to the bank for investment, along with the cash dividends, in the corporation's common stock. Another recent development allows a participating shareholder to deposit with the bank the securities of a different class issued by the same corporation. The dividends or interest received with respect to these securities also are reinvested in the corporation's common stock.

2. *Automatic investment services.* A number of banks currently are actively soliciting investors to participate in automatic investment services. Through such a service, a bank offers existing, and perhaps potential, checking account customers the opportunity to have a specified amount of money deducted monthly from their checking accounts and invested by the bank in the common stock of one or more issuers which are included on a list supplied by the bank. The issuers comprising the list may be, as in several plans, the twenty-five largest corporations in the Standard & Poor's 425 Industrial Index, based on the market value of their outstanding common stock. The monthly deductions from each participating customer's account are pooled by the bank so that the securities designated by customers may be purchased at a lower commission rate and, when possible, at a commission rate negotiated by the bank. The bank may acquire shares in transactions on a national securities exchange or in the over-the-counter market. Customers are charged a per transaction service fee by the bank which generally is equal to five percent of the amount the customer invests, or $2.00, for each stock designated, whichever is less. Each participating customer is provided a monthly statement by the bank that indicates the amount of a particular stock designated for purchase, the number of full and fractional shares purchased, the price per share, the date of acquisition and the total number of shares of that particular stock owned by the particular customer. If the bank makes more than one purchase of a particular stock in a monthly cycle, the price per share deemed paid by each customer will be the average price (including his *pro rata* share of brokerage commissions) paid by the bank for all purchases made during that cycle, not the price paid by the bank in any particular transaction.[14]

The securities purchased for the account of a customer generally are held by the bank in the name of the bank's nominee, but whole shares will be delivered to any customer requesting such delivery. Each participating customer has the right to vote attributable to whole shares purchased by him through the service, and the bank will provide participants all proxy material with respect to those shares.

A customer may terminate participation in the service at any time upon notice to the bank. Upon termination, a customer receives the whole shares in his account. Alternatively, a customer may elect to have the bank sell his entire interest and receive cash for all the securities in his account. The bank will make such sales in the open market through a broker-dealer.

3. *Voluntary investment plans.* Pursuant to voluntary investment plans, a participating broker-dealer compiles a list of approximately thirty securities, selected on whatever basis the broker-dealer normally recommends particular securities to his customers.[15] Small investor customers of the broker-dealer expressing an interest in the plan are referred to a bank which offers these customers a monthly purchase program for the securities selected by the customer from among the thirty recommended by the broker-dealer. In the event a customer wishes to invest an amount in excess of, say, $1,000 on a monthly basis, the bank refers the customer back to the broker-dealer.

In a typical voluntary investment plan, the bank establishes a custodial account for each customer, handles all funds and securities and provides confirmation of purchases to each customer. Each participating customer is charged four and one-half percent of the total amount invested to cover all commission

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[9] 15 U.S.C. 80b-2(a)(11)(A).

[10] 15 U.S.C. 78c(a)(4) and 15 U.S.C. 78c(a)(5).

[11] 15 U.S.C. 80b-2(a)(12).

[12] 15 U.S.C. 78c(a)(6).

[13] 15 U.S.C. 78b.

[14] Because customers' orders are pooled, there generally is a delay in the execution of a particular customer's order. Banks which offer the service state only that an acquisition will be completed within thirty days following an authorized charge to the customer's account.

[15] Since April 1, 1974, some of the larger brokers have started offering plans similar in effect to the voluntary investment plan but without the intervention of a bank.

charges and other expenses incurred by the bank. One-fourth of this fee (that is, approximately one percent of the amount invested) is paid by the bank to the broker-dealer who referred the customer to the bank.

4. *Individual portfolio management services.* A number of banks also have recently begun to offer nondiscretionary and discretionary individual portfolio management services to investors with accounts as small as $10,000. Such services raise several questions under the federal securities laws including whether such services, when actively merchandised to small investors, would be issuing securities required to be registered under the Securities Act of 1933 and whether such services would involve the creation of an investment company required to be registered under the Investment Company Act of 1940. The Commission expects shortly to publish for comment certain proposed positions with respect to the issues raised generally by the offering of such services and the recommendations of its Advisory Committee on Investment Management Services for Individual Investors.[16]

5. *Advisers to investment companies.* A number of banks also have recently begun to act as investment advisers to investment companies. Generally those investment companies have been closed-end companies although there are several that are open-ended. Banks have used two different means for acting as investment advisers to investment companies. In some cases the bank itself has acted as the investment adviser and, accordingly, relying upon the exclusion in the Investment Advisers Act of 1940, these banks have not registered with the Commission. In other cases, bank holding company complexes have formed separate non-bank investment advisory subsidiaries, which they have registered with the Commission under the Investment Advisers Act.

The Commission's inquiry. Although the staff of the Commission has been studying the various investment services offered by banks, neither it nor the Commission has reached any definitive conclusions concerning the extent to which these services are subject to the federal securities laws, and what, if any, regulatory or legislative action may be required to insure that the nation's securities markets are not adversely affected by the operation of these services and that investors are protected when they participate in such services.

To aid the Commission in its efforts to develop appropriate regulatory policy in this area, the comments of interested persons are hereby requested. The Commission would appreciate receiving comments on the following specific issues as they relate to each of the five services described above, but, of course, commentators should feel free to comment upon other aspects of these issues.

1. Do bank-sponsored investment services, such as those described above, attract investors who would not otherwise enter the marketplace to invest in equity securities? What type of investor has been, and likely will be, drawn to such services? Are the numbers of investors who may be expected to utilize such services likely to be significant?

2. How will the proliferation of bank-sponsored investment services affect the nation's capital market system? Will the proliferation of such services result in the increased institutionalization of the nation's capital markets and, if so, with what results? What ramifications would such an increase in bank-sponsored services have on the development of a central market system?

3. Do banks which offer investment services have a competitive advantage over other participants in the security industry because, among other things, banks engaging in these activities may be exempt from certain provisions of the Federal securities laws or because of other relationships banks may have with their customers? What is the proper scope of such exemptions in light of the present differences, if any, in bank operations from conditions existing when the Federal securities laws were adopted?

4. Do advertisements for bank-sponsored investment services appropriately describe such services? Do advertisements fairly explain, for example, that the prices paid by the investor are based upon the cost (or the average cost, if the bank makes more than one purchase in a monthly cycle) to the bank and an average cost over a period, not upon a cost incurred at the time of his particular investment? If not, what steps, if any, can, or should, the Commission take to correct any existing abuses?

5. To what extent do the various provisions of the Glass-Steagall Act relate to the various investment services described above? Do any provisions prohibit any specific services or portions thereof? Do those services create conflicts of interest for the banks which offer them? To what extent does existing regulation of banks provide investors who participate in bank-sponsored investment services with protections comparable to those provided investors under the Federal securities laws? Should the Glass-Steagall Act be amended specifically to prohibit or to authorize such services, if it does not do so already?

6. Should banks that offer investment services of the type described above be regulated in those activities by the Commission or by banking authorities? If regulation by the Commission is deemed appropriate, what statutory authority does the Commission already possess that could be utilized toward such an end? If it is more appropriate to proceed by legislation, what type of legislative proposal should Congress be urged to accept to accomplish this goal?[17]

Written statements of views and comments with respect to the foregoing should be addressed to: George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 on or before June 29, 1974. Reference should be made to file number S7–522. All communications will be available for public inspection.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

APRIL 30, 1974.

[FR Doc.74–11903 Filed 5–22–74;8:45 am]

[File No. 7–4441]

TELEPROMPTER CORP.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 16, 1974.

In the matter of application of the Boston Stock Exchange for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Teleprompter Corp., File No. 7–4441.

Upon receipt of a request, on or before June 1, 1974 from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C., 20549 not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–11894 Filed 5–22–74;8:45 am]

[16] *Advisory Committee on Investment Management Services for Individual Investors Report, Small Account Investment Management Services* (Jan. 18, 1973). Under the Advisory Committee's recommendations banks would be expected to comply voluntarily with certain rules as a "safe harbor" from Securities Act and Investment Company Act registration.

[17] On November 15, 1973, Senator Brooke introduced S. 2707, a bill which would amend Section 3(a)(4) of the Securities Exchange Act to include within the definition of the term "broker," for certain purposes, banks which solicit transactions in securities to be effected by the bank as agent for the account of others.

[File No. 500–1]

CONTINENTAL VENDING MACHINE CORP.

Notice of Suspension of Trading

MAY 14, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Vending Machine Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 15, 1974 through May 24, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–11895 Filed 5–22–74;8:45 am]

[File No. 500–1]

ENVIRONONICS, INC.

Notice of Suspension of Trading

MAY 14, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Environonics, Inc. being traded other 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 12:00 noon (e.d.t.) on May 14, 1974 through May 23, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–11896 Filed 5–22–74;8:45 am]

[File No. 500–1]

FRANKLIN NATIONAL BANK

Notice of Suspension of Trading

MAY 13, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the preferred stock of Franklin National Bank (New York, N.Y.) 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 12:30 a.m., e.d.t., on May 13, 1974 through 10 a.m., e.d.t., on May 15, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–11890 Filed 5–22–74;8:45 am]

[File No. 500–1]

FRANKLIN NATIONAL BANK

Notice of Suspension of Trading

MAY 14, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the preferred stock of Franklin National Bank (New York, N.Y.) 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 10:00 a.m. (e.d.t.) on May 15, 1974 through May 24, 1974.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–11891 Filed 5–22–74;8:45 am]

[File No. 500–1]

FRANKLIN NEW YORK CORP.

Notice of Suspension of Trading

MAY 13, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common and preferred stock of Franklin New York Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 12:30 a.m. (e.d.t.) on May 13, 1974 through 10:00 a.m. (e.d.t.) on May 15, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–11892 Filed 5–22–74;8:45 am]

[File No. 500–1]

FRANKLIN NEW YORK CORP.

Notice of Suspension of Trading

MAY 14, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common and preferred stock of Franklin New York Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 10:00 a.m. (e.d.t.) on May 15, 1974 through May 24, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–11893 Filed 5–22–75;8:45 am]

[File No. 500–1]

HOME-STAKE PRODUCTION CO.

Notice of Suspension of Trading

MAY 14, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Home-Stake Production Company being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 15, 1974 through May 17, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–11897 Filed 5–22–74;8:45 am]

[70–5504, Rel. No. 18418]

MISSISSIPPI POWER & LIGHT CO.

Notice of Proposed Transactions Related To Financing of Pollution Control Facilities

MAY 15, 1974.

Notice is hereby given that Mississippi Power & Light Company ("Mississippi"), P.O. Box 1640, Jackson, Mississippi 39205, an electric utility subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 9(a) and 10 of the Act as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Mississippi is in the process of constructing a steam electric generating plant at Greenville, Washington County, Mississippi, known as the Gerald Andrus Steam Electric Station ("Andrus"). The company is also converting a steam electric generating facility known as the Baxter Wilson Steam Electric Station ("Wilson"), located in Warren County, Mississippi, so that the facility will be able to burn a mixture of various grades of fuel oil. In order to comply with prescribed environmental control standards of the State of Mississippi with respect to air and water quality, it has been and will be necessary for Mississippi to construct as part of these stations, certain pollution control facilities.

It is intended that Washington County, Mississippi, will issue its pollution control revenue bonds for the purpose of paying the costs of the construction and equipping of certain pollution control facilities at the Gerald Andrus Steam Electric Station ("First Andrus Project"). The company proposes to enter into an installment sale agreement ("First Andrus Agreement") with Washington County which will provide for the construction and equipping of the First Andrus Project by or on behalf of Washington County and the issuance by Wash-

ington County of its Pollution Control Revenue Bonds, Series A–1, in principal amount, presently estimated not to exceed $8,400,000, sufficient to cover the cost of construction, as defined (which includes an allowance for funds used during construction). The Series A–1 Bonds will mature in 30 years and will be entitled to the benefit of a sinking fund which, in the aggregate, will retire at least 25 percent of the original issue by its final maturity date. The proceeds of the sale of the Series A–1 Bonds will be deposited by Washington County with the trustee ("Washington County Trustee") under an indenture to be entered into between Washington County and such Trustee, pursuant to which the Series A–1 Bonds are to be issued and secured. The proceeds resulting from the issuance of the Series A–1 Bonds will be applied to payment of the cost of construction of the First Andrus Project.

The First Andrus Agreement also will provide for the sale of the First Andrus Project to the company, the payment by the company of the purchase price of the First Andrus Project in semi-annual installments over a term of years, and the assignment and pledge to the Washington County Trustee of Washington County's interest in, and of the moneys receivable by Washington County under, the First Andrus Agreement. The purchase price of the First Andrus Project payable by the company will be such amount, including interest thereon, as shall be sufficient (together with other moneys held by the Washington County Trustee under the Series A–1 Indenture for that purpose) to pay the principal of and interest on the Series A–1 Bonds as the same become due and payable. The company will also pay the fees and charges of the Washington County Trustee under the Series A–1 Indenture. The First Andrus Agreement will provide that the company, may at its option or under certain circumstances, prepay the purchase price either in whole at any time or in part from time to time. In order to comply with Mississippi law, it will be necessary for the company to convey to Washington County such portions of the First Andrus Project as are now owned by the company, which facilities will thereupon become a part of the First Andrus Project which is to be provided by Washington County and which the company proposes to purchase as provided in the First Andrus Agreement.

It is further intended that Washington County will issue its additional pollution control revenue bonds for the purpose of paying the costs of the construction and equipping of certain additional pollution control facilities at the Gerald Andrus Steam Electric Station ("Second Andrus Project"). The company proposes to enter into an installment sale agreement ("Second Andrus Agreement") with Washington County which will provide for the construction and equipping of the Second Andrus Project by or on behalf of Washington County and the issuance by Washington County of its Pollution Control Revenue Bonds, Series A–II, in principal amount not to exceed $1,000,000, which agreement will have terms and conditions similar to those in the First Andrus Agreement. The proceeds of the sale of the Series A–II Bonds will be deposited by Washington County with the Washington County Trustee under a second indenture to be entered into between Washington County and such Trustee, pursuant to which the Series A–II Bonds are to be issued and secured. The terms and conditions of the Series A–II Indenture will be similar to the terms and conditions of the Series A–I Indenture except that there will be no sinking fund in respect of the Series A–II Bonds. In order to comply with Mississippi law, it will be necessary for the company to convey to Washington County such portions of the Second Andrus Project as are now owned by the company, which facilities will thereupon become a part of the Second Andrus Project which is to be provided by Washington County and which the company proposes to purchase as provided in the Second Andrus Agreement.

It is additionally intended that Warren County, Mississippi ("Warren County") will issue its pollution control revenue bonds for the purpose of paying the cost of the construction and equipping of the pollution control facilities at the Baxter Wilson Steam Electric Station ("Wilson Project"). The company proposes to enter into an installment sale agreement ("Wilson Agreement") with Warren County which provides for the construction and equipping of the Wilson Project by or on behalf of Warren County and the issuance by Warren County of its Pollution Control Revenue Bonds ("Wilson Bonds") in principal amount presently estimated not to exceed $8,575,000, which agreement will have terms and conditions similar to those in the First Andrus Agreement.

The proceeds of the sale of the Wilson Bonds will be deposited by Warren County with the trustee under an indenture to be entered into between Warren County and such Trustee pursuant to which the Wilson Bonds are to be issued and secured. The terms and conditions of the Warren County Indenture will be similar to the terms and conditions of the Series A–I Indenture, including a similar sinking fund. In order to comply with Mississippi law, it will be necessary for the company to convey to Warren County such portions of the Wilson Project as are now owned by the company, which facilities will thereupon become a part of the Wilson Project which is to be provided by Wilson County and which the company proposes to purchase as provided in the Wilson Agreement.

The existing Andrus Facilities will be conveyed to Washington County and the existing Wilson Facilities will be conveyed to Warren County subject to the lien of the company's Mortgage and Deed of Trust, dated as of September 1, 1944, to Irving Trust Company, Trustee, as supplemented. Upon reconveyance to the company, these facilities, as well as the new pollution control facilities generally when constructed, will be subject to such lien. For financial and accounting reporting purposes, the indebtedness of Mississippi under the installment sale agreements will be capitalized.

It is contemplated that the Series A–I and Series A–II Bonds will be sold by Washington County and the Wilson Bonds will be sold by Warren County pursuant to arrangements with Kidder, Peabody & Co. Incorporated as the sole underwriter. In accordance with the laws of the State of Mississippi, the interest rate to be borne by each issue will be fixed by the county involved. The company will not be party to the underwriting agreements for any of the bonds, but such agreements will provide that the terms of such bonds and of their sale by the counties shall be satisfactory to Mississippi. The company understands that interest payable on the bonds of the three issues will be exempt from Federal income taxes under the provisions of section 103 of the Internal Revenue Code of 1954, as amended. The company has been advised that the annual interest rates on obligations, interest on which is so tax exempt, historically have been and can be expected at the time of issuance of the above-described issues of bonds to be 1½ percent to 2½ percent lower than the rates of obligations of like tenor and comparable quality, interest on which is fully subject to Federal income tax.

The application states that no State commission or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 7, 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 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 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, as filed or as it may be amended, may be granted 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 Regulations, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–11901 Filed 5–22–74;8:45 am]

[File No. 500-1]

STANDARD DREDGING CORP.

Notice of Suspension of Trading

MAY 14, 1974.

The preferred and common stock of Standard Dredging Corp. being traded on the American & Midwest Stock Exchanges pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Standard Dredging Corp. 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 12 noon (e.d.t.) on May 14, 1974 through May 23, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-11898 Filed 5-22-74;8:45 am]

[File No. 500-1]

STRATTON GROUP, LTD.

Notice of Suspension of Trading

MAY 14, 1974.

The common stock of Stratton Group, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Stratton Group, Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from May 15, 1974 through May 24, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-11899 Filed 5-22-74;8:45 am]

[File No. 500-1]

TECHNICAL RESOURCES, INC.

Notice of Suspension of Trading

MAY 16, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Technical Resources, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 17, 1974 through May 26, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-11900 Filed 5-22-74;8:45 am]

[70-5366]

MIDDLE SOUTH UTILITIES, INC.

Post-Effective Amendment Regarding Increase in Amount of Authorized Bank Borrowings

MAY 13, 1974.

Notice is hereby given that Middle South Utilities, Inc., Two Eighty Park Avenue, New York, New York 10017 ("Middle South"), a registered holding company, has filed a fifth post-effective amendment to its declaration in this proceeding pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act as applicable to the following proposed transaction. All interested persons are referred to the declaration, as now amended, for a complete statement of the proposed transaction.

By order dated August 24, 1973 (HCAR 18065), the Commission authorized Middle South to issue and sell its unsecured promissory notes in an aggregate amount not to exceed $30,000,000 outstanding at any one time under a $135,000,000 revolving credit agreement ("Credit Agreement") with a group of 7 commercial banks headed by Manufacturers Hanover Trust Company of New York ("Banks"). The aggregate maximum amount of authorized borrowings was established at $103,700,000, by post-effective amendments numbers 1, 2, 3, and 4 to the declaration (HCAR 18178, 18214, 18345, and 18411). Middle South now proposes to increase the amount of authorized borrowings from the Banks from $103,700,000 to $143,700,000. The proportions in which the borrowing will be made, the interest rate, the maturity date, the form of note, and all other terms and conditions of the borrowing will be the same as those terms and conditions set forth in the Credit Agreement and the original filing herein, heretofore described and authorized in the Commission order dated August 24, 1973.

The proceeds of the additional notes to banks will be used to purchase 40,000 shares of common stock of Middle South Energy, Inc., for an aggregate of $40,000,000 in cash. Such acquisition is subject to Commission approval under a pending filing (HCAR 18394 (April 25, 1974)).

Middle South reaffirms its intention to reduce the principal amount of notes payable outstanding through the issuance of additional shares of its common stock. The issuance of such additional common stock will be the subject of a future filing before the Commission.

It is represented that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transaction. No special fees or expenses are anticipated in connection with the transaction proposed herein.

Notice is further given that any interested person may, not later than June 3, 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 post-effective amendment to the previously amended 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 now amended by this post-effective amendment or as it may be further 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 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.74-11638 Filed 5-22-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 06/10-0152]

BRITTANY CAPITAL CORP.

Notice of Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Brittany Capital Corporation (Brittany), 4325 Republic Bank Tower, Dallas, Texas 75201, a Federal Licensee, under the Small Business Investment Act of 1958, as amended (Act), has filed an application pursuant to § 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1974)), for approval of a conflict of interest transaction.

It is proposed that Brittany provide $50,000 in financing to American Housing Resources, Inc. (American). Mr. Alan D. Feld is a director of American and owns approximately a 13 percent equity interest in this concern. In addition, he is a director of Brittany and owns approximately 4 percent of its outstanding stock.

Pursuant to the provisions of § 107.3 (a) of the Regulations, Mr. Feld is considered to be an Associate of Brittany. As such, the transaction falls within the purview of § 107.1004(b) (1) of the Regulations and will require the prior written approval of the Small Business Administration (SBA).

Notice is further given that any interested person may, not later than fifteen days from the date of the publication of this notice submit to SBA, in writing, relevant comments on the proposed transaction. Any such communications should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published by Brittany in a newspaper of general circulation in Dallas, Texas.

Dated: May 14, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.74-11801 Filed 5-22-74;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Notice of Cancellation of Meeting

The meeting of the National Advisory Committee on Occupational Safety and Health scheduled for May 31, 1974, in St. Louis, Missouri, notice of which was published on May 10, 1974 (39 FR 16940), is hereby cancelled because a quorum cannot attend.

Signed at Washington, D.C., this 16th day of May 1974.

J. GOODELL,
Acting Executive Secretary.

[FR Doc.74-11769 Filed 5-22-74;8:45 am]

FOREIGN-TRADE ZONES BOARD

[Order No. 98]

FOREIGN-TRADE SUBZONE 9A, EWA, OAHU, HAWAII

Approval for Construction and Operation of Synthetic Natural Gas Plant

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) has adopted the following order:

Whereas, Section 13 of the Act (Sec. 400.815 of the Board's Regulations) provides in part that a zone grantee may, with approval of the Board, permit zone users to erect such buildings and other structures within the zone as will meet their particular requirements;

Whereas, the State of Hawaii, as grantee of Foreign-Trade Zone No. 9 and Subzone 9A, has requested in an application filed April 17, 1973, that the Board approve a proposal to construct and operate a synthetic natural gas (SNG) plant within Foreign-Trade Subzone No. 9A, Ewa, Oahu, Hawaii, said plant to be operated by ENERCO, Inc., a Hawaiian public utility and wholly owned subsidiary of Pacific Resources, Inc.;

Whereas, the necessary documentation and evidence have been submitted by the State of Hawaii, including an environmental impact report;

Whereas, public notice of the application has been given and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the provisions of the Act and Regulations on such matters are satisfied and the proposal is found to be in the public interest,

Now, therefore, the Board hereby orders:

That the grantee is authorized to permit the construction and operation by ENERCO, Inc., of an SNG plant and related facilities within Foreign-Trade Subzone No. 9A in accordance with the terms of the Act, including Section 13, and Section 400.815 of the Board's Regulations. Considering national policy regarding utilization of domestic petroleum capacity, this approval is contingent upon the fact that any naphtha or other petroleum derivative used at the SNG plant, while operating under foreign-trade zone procedures, shall be produced at Subzone 9A or at a domestic refinery or shall have had duties, import charges or license fees paid thereon. The facilities herein authorized shall, prior to becoming operational, be inspected by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C. this 17th day of May 1974.

FREDERICK B. DENT,
Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:

JOHN J. DAPONTE,
Executive Secretary, Foreign-Trade Zones Board.

[FR Doc.74-11880 Filed 5-22-74;8:45 am]

NATIONAL ADVISORY COUNCIL ON SUPPLEMENTARY CENTERS AND SERVICES

NOTICE OF PUBLIC MEETING

Notice is hereby given, pursuant to Public Law 92–463, that the next meeting of the National Advisory Council on Supplementary Centers and Services will be held on June 13 and 14, 1974 from 9:00 a.m. to 5:00 p.m. in the conference room of the Council's office at 425 13th Street, N.W., Suite 529, Washington, D.C.

The National Advisory Council on Supplementary Centers and Services is established under section 309 of Public Law 92–230. The Council is directed to advise the President and the Congress concerning the operation of Title III of the Elementary and Secondary Education Act.

Agenda items for the meeting will include: (1) pending legislation on ESEA Title III; (2) the role of the National Advisory Council in the Identification, Validation, and Dissemination of innovative education programs; (3) Quarterly Reports (the following topics will be considered: Fall—Basic Skills, Winter—Special Education, and Spring—Teacher, Staff Training); and (4) establishing goals and objectives for FY 1975.

The meeting of the Committee shall be open to the public. Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the Council's Executive Director, located in Suite 529, 425 13th Street, NW., Washington, D.C.

Signed at Washington, D.C. on May 17, 1974.

GERALD J. KLUEMPKE,
Executive Director.

[FR Doc.74-11798 Filed 5-22-74;8:45 am]

POSTAL RATE COMMISSION

[Dockets Nos. MC73-1, R74-1]

MAIL CLASSIFICATION SCHEDULE, POSTAL RATES AND FEES, 1973

Notice of Proceeding

MAY 20, 1974.

Notice is hereby given that the Chief Administrative Law Judge has rescheduled the date for reconvening the above entitled Mail Classification proceeding, Docket No. MC73-1, from June 4, 1974 to May 24, 1974, at 2 p.m., 2000 L Street, NW., Suite 500, Washington, D.C. 20268. The proceeding in Postal Rates and Fees, Docket No. R74-1, will reconvene at 10 a.m., on May 24, 1974, at the same place.

JOSEPH A. FISHER,
Secretary.

[FR Doc.74-11924 Filed 5-22-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 514]

ASSIGNMENT OF HEARINGS

MAY 20, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC–107515 Sub 874, Refrigerated Transport Co., Inc., now assigned June 10, 1974, will be held in the Ramada Inn, 1705 Dauphin Island Parkway, Mobile, Alabama.

MC 109397 Sub 293, Tri-State Motor Transit Co., now being assigned hearing July 25, 1974 (2 days), at Atlanta, Ga., in a hearing room to be later designated.

MC–C–8266, Stanley S. Barstow, dba Barstow Transportation—Investigation and Revocation of Certificates—now assigned July 10, 1974, will be held in Room 134, Federal Bldg. & Courthouse, 450 Main St., Hartford, Conn.

MC–138429 Sub 6, Ais, Inc., application is dismissed.

[SEAL] ROBERT L. OSWALD, *Seretary.*

[FR Doc.74–11933 Filed 5–22–74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MAY 20, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before June 7, 1974.

FSA No. 42835—*Processed Clay to Borger, Texas.* Filed by M. B. Hart, Jr., Agent (No. A6336), for interested rail carriers. Rates on clay, processed, in carloads, as described in the application, from specified points in Florida and Georgia, to Borger, Texas.

Grounds for relief—Rate relationship.

Tariff—Supplement 15 to Southern Freight Association, Agent, tariff S/SW–921–D, I.C.C. No. S–1095. Rates are published to become effective on June 20, 1974.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–11934 Filed 5–22–74;8:45 am]

[Notice 69]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 14, 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 authoirty under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 25798 (Sub-No. 257 TA), filed May 6, 1974. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, P.O. Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from Traverse City, Mich., to points in Alabama, Arkansas, Florida, Georgia, Mississippi, Louisiana, Kentucky, Tennessee, Texas, Virginia, West Virginia, and Oklahoma, for 180 days. SUPPORTING SHIPPER: Chef Pierre, Inc., P.O. Box 1009, Traverse City, Mich. 49684. SEND PROTESTS TO: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Palm Coast II Building, Suite 208, 5255 NW. 87th Avenue, Miami, Fla. 33166.

No. MC 28956 (Sub-No. 17 TA) (CORRECTION), filed April 5, 1974, published in the FEDERAL REGISTER issue of April 24, 1974, and republished as corrected this issue. Applicant: RYALS TRUCK LINE, INC., 908 N. Pacific Highway, Albany, Oreg. 97321. Applicant's representative: Larry Smart, 419 NW., 23rd Avenue, Portland, Oreg. Authority sought to operate as a *common carrier*, by motor vehicle, over irrgeular routes, transporting: *Paper and paper articles*, between the plantsite of the Western Kraft Corporation, near Albany, Oreg., on the one hand, and, on the other, points in Thurston, Pierce, and King Counties, Wash., for 180 days. SUPPORTING SHIPPER: Western Kraft Corporation, P.O. Box 339, Albany, Oreg. 97321. SEND PROTESTS TO: District Supervisor A. E. Odoms, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 46267 (Sub-No. 8 TA), filed May 7, 1974. Applicant: SCOTT FREIGHT SERVICE CORP., 4740 Industrial Road, Ft. Wayne, Ind. 46825. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. 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, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Fort Wayne, Ind., and Saint Joe, Ind., Route1: From Fort Wayne over Indiana State Highway 327 to junction Indiana Highway 4, thence to junction of County Highway 800, thence south to junction Indiana Highway 1 and thence over Indiana Highway 1 to St. Joe, Ind., serving all intermediate points and the off-route points of Helmer and South Milford, Ind., for 180 days.

NOTE.—Applicant will tack in Docket No. MC 46257 (Sub 5) authorizes interstate service between Ft. Wayne and Saint Joe, Ind.

SUPPORTING SHIPPERS: There are approximately 18 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: District Supervisor J. H. Gray, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne Street, Room 204, Fort Wayne, Ind. 46802.

No. MC 51146 (Sub-No. 376 TA), filed May 7, 1974. Applicant: SCHNEIDER TRANSPORT, INC., 2661 S. Broadway, P.O. Box 2298 (Box zip 54306), Green Bay, Wis. 54304. Applicant's representative: Neil DuJardin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibrous glass products and materials, mineral wool, mineral wool products and materials, insulated air ducts, insulating products, and materials* including *products necessary in the installation thereof* (except commodities in bulk), from Kansas City and Pauline, Kans., to points in Iowa, for 180 days. SUPPORTING SHIPPER: Certain-Teed Products Corp., CSG Group, P.O. Box 860, Valley Forge, Pa. 19482. SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 103993 (Sub-No. 807 TA), filed May 7, 1974. Applicant: MORGAN DRIVE-AWAY, INC., 2800 W. Lexington Ave., Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes,

transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from Claiborne Parish, La., to points in Arkansas, Texas, Oklahoma, Mississippi, Tennessee, and Missouri, for 180 days. SUPPORTING SHIPPER: Guerdon Industries, Inc., Intra-American Homes Division, P.O. Box 60, Homer, La. 71040. SEND PROTESTS TO: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 W. Wayne, Room 204, Ft. Wayne, Ind. 46802.

No. MC 110420 (Sub-No. 717 TA), filed May 6, 1974. Applicant: QUALITY CARRIERS, INC., Mail: P.O. Box 186, Pleasant Prairie, Wis. 53158, and Off: I–94 County Highway C., Bristol, Kenosha County, Wis. 53104. Applicant's representative: David A. Petersen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid bulk chocolate coating*, in tank vehicles, from the plant site of ITT Continental Baking Company, Inc., in St. Louis, Mo., to the plant site of ITT Continental Baking Company, Inc., in Omaha, Nebr., for 180 days. SUPPORTING SHIPPER: ITT Continental Baking Company, Inc., P.O. Box 731, Rye, N.Y. 10580 (Richard B. Cortland, Director of Traffic). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 110420 (Sub-No. 718 TA), filed May 6, 1974. Applicant: QUALITY CARRIERS, INC., Mail: P.O. Box 186, Pleasant Prairie, Wis. 53158, and Off: I–94 County Highway C, Bristol, Kenosha County, Wis. 53104. Applicant's representative: David A. Petersen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wheat flour*, in bulk, in tank, or hopper-type vehicles, from Indianapolis, Ind., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Tennessee, and Wisconsin, for 180 days. SUPPORTING SHIPPER: Acme Evans Milling, 902 W. Washington, Indianapolis, Minn. 46204 (Herman Pekarek, Vice President—Transportation). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 114457 (Sub-No. 193 TA), filed May 6, 1974. Applicant: DART TRANSIT CO., a Corporation, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from Cleveland, Ohio, to points in Illinois, Iowa, Missouri, and Kansas, restricted to traffic originating at the plantsite and storage facilities of Cleveland Steel Container at Cleveland, Ohio and destined to the named destination states, for 180 days. SUPPORTING SHIPPER: Cleveland Steel Container, 12818 Coit Road, Cleveland, Ohio 44108. SEND PROTESTS TO: Raymond T. Jones, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building, U.S. Courthouse, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 115181 (Sub-No. 32 TA), filed May 7, 1974. Applicant: HAROLD M. FELTY, INC., Rural Delivery No. 1, Pine Grove, Pa. 17963. Applicant's representative: John W. Dry, 541 Penn Street, Reading, Pa. 19601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Montgomery County, Pa., to Sparrows Point, Md., for 180 days. SUPPORTING SHIPPER: Mahantongo Coal Sales, 201 Deerfield Drive, Pottsville, Pa. 17901. SEND PROTESTS TO: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 119670 (Sub-No. 23 TA), filed April 29, 1974. Applicant: THE VICTOR TRANSIT CORPORATION, 5250 Este Avenue, P.O. Box 32115, Cincinnati, Ohio 45232. Applicant's representative: Robert H. Kinker, 711 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, caps and closures therefore, and corrugated boxes* knocked down flat, and *rejected shipments* on return, from the plantsite of Universal Glass Products, Star City Glass Division of National Bottle Corp., at Vienna, W. Va., to Cincinnati and St. Bernard, Ohio, for 180 days. SUPPORTING SHIPPER: National Bottle Corp., One Decker Square, Bala Cynwyd, Pa. 19004. SEND PROTESTS TO: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5514–B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 123075 (Sub-No. 25 TA) (CORRECTION), filed April 12, 1974, published in the FEDERAL REGISTER issue of May 1, 1974, and republished as corrected this issue. Applicant: SHUPE & YOST, INC., North U.S. 85 Bypass, P.O. Box 1123, Greeley, Colo. 80631. Applicant's representative: Stuart L. Poelman, 7th Floor, Continental Bank Building, Salt Lake City, Utah 84101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from the plantsite of Great Salt Lake Mineral & Chemical Corporation located near Little Mountain, Utah, to points in Nebraska and South Dakota on and east of U.S. Highway 83, under continuing contract with Carey Salt Company of Hutchinson, Kans., for 180 days. SUPPORTING SHIPPER: Carey Salt Division of Interpace Corporation, P.O. Box 1728, Hutchinson, Kans. 87501. SEND PROTESTS TO: District Supervisor, Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 127337 (Sub-No. 10 TA), filed May 7, 1974. Applicant: CHET'S TRANSPORT, INC., West Pembroke, Charlotte, Maine 04666. Applicant's representative: Lawrence E. Lindemann, Suite 1032, Pennsylvania Building, Pennsylvania Avenue and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery equipment, cartons, wrappers, materials, and supplies* used or useful in the catching, processing, and packaging of fish and fish products (except in bulk), from points in Maine, New Hampshire, and Massachusetts, to ports of entry on the United States-Canada boundary line at Gloucester, Mass., and Portland, Houlton, and Calais, Maine, restricted to the transportation of shipments destined to the Province of Newfoundland and Nova Scotia, Canada, for 90 days. SUPPORTING SHIPPERS: George T. Dixon Limited, P.O. Box 9067, Bldg. No. 12, Torbay Airport, St. Johns, Newfoundland, Canada; Booth Fisheries, Inc., 1 Booth Avenue, Portsmouth, N.H.; Humber Cold Storage Ltd., P.O. Box 479, West End Postal Sta., Corner Brook, Newfoundland, Canada A2H 6K3; Fishery Products, Ltd., P.O. Box 550, 70 O'Leary Avenue, St. Johns, Newfoundland, Canada; Ocean Maid Foods Inc., 191 Main St., Gloucester, Mass. 01930; and H. B. Nickerson & Sons, North Sydney, Nova Scotia, Canada. SEND PROTESTS TO: District Supervisor Donald G. Weiler, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Portland, Maine 04112.

No. MC 133666 (Sub-No. 11 TA), filed May 6, 1974. Applicant: JACOBSON TRANSPORT, INC., 1112 Second Avenue South, Wheaton, Minn. 56296. Applicant's representatives: Keith C. Davison (same address as above) and Samuel Rubenstein, 301 N. Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer and ingredients*, in bulk, in tank vehicles, from Red Oak, Iowa, to points in Minnesota, South Dakota, and North Dakota, for 180 days. SUPPORTING SHIPPER: Na-Churs Plant Food Company, Ltd., Route 1, Fergus Falls, Minn. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–11932 Filed 5–22–74;8:45 am]

[Notice 70]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 16, 1974.

The following are notices of filing of application, except as otherwise specifi-

cally 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 Part 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 examied at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 25562 (Sub-No. 287 TA), filed May 6, 1974. Applicant: A. R. GUNDRY, INC., 85 Stanton Street, Rochester, N.Y. 14611. Applicant's representative: Robert V. Gianniny, 900 Midtown Tower, Rochester, N.Y. 14604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal, tar, and asphalt*, from Troy, N.Y., to Portland, Conn., the carrier does not anticipate return loads as the types of products to be transported are not conducive to using vehicles for other products unless tank is extensively cleaned and haul is less than 120 miles, for 180 days. SUPPORTING SHIPPER: Chevron Asphalt Company, 409 Washington Avenue, Room 300, Towson, Md. 21204. SEND PROTESTS TO: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 104, 301 Erie Blvd., West, Syracuse, N.Y. 13202.

No. MC 56170 (Sub-No. 2 TA) (CORRECTION), filed April 11, 1974, published in the FEDERAL REGISTER issue of April 26, 1974, and republished as corrected this issue. Applicant: HENDERSON TRUCKING, INC., 173 Franklin Turnpike, Mahwah, N.J. 07430. Applicant's representative: Edward F. Bowes, 744 Broad St., Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toilet goods and cosmetics, and raw materials, supplies, and equipment* used in the manufacture and sale thereof, *machinery, office furniture, printed material, and premiums* incidental to the sale of toilet goods and cosmetics, from South Kearny and North Bergen, N.J., to West Nyack and Rye, N.Y., for 180 days. SUPPORTING SHIPPER: Avon Products, Inc., Midland & Peck Aves., Rye, N.Y. 10580. SEND PROTESTS TO: District Supervisor Joel Morrows, Bureua of Opertions, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

NOTE.—The purpose of this republication is to change the territory description.

No. MC 91811 (Sub-No. 12 TA), filed May 9, 1974. Applicant: MILTON K. MORRIS, INC., P.O. Box 56, 2307 Bristol Pike, Croydon, Pa. 19020. Applicant's representative: Francis P. Desmond, 115 East Fifth Street, Chester, Pa. 19013. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal, wood chips, vermiculite, lighter fluid, and fireplace logs* (except commodities in bulk), between the plantsites of Clorox Company and its affiliates at Parsons and Ridgeley, W. Va., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, Maine, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia, for 180 days. SUPPORTING SHIPPER: Mr. R. W. Ernst, General Traffic Manager, The Clorox Company, P.O. Box 24305, Oakland, Calif. 94623. SEND PROTESTS TO: F. W. Doyle, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Building, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 103993 (Sub-No. 808 TA), filed May 9, 1974. Applicant: MORGAN DRIVE-AWAY, INC., 2800 W. Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative Paul D. Borghesani (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Huron County, Ohio, to points in Pennsylvania, Illinois, Indiana, Michigan, and Kentucky, for 180 days. SUPPORTING SHIPPER: Festival Homes of Ohio, Box 98, 40 Seminary St., Greenwich, Ohio 44837. SEND PROTEST TO: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 W. Wayne Street, Room 204, Ft. Wayne, Ind. 46802.

No. MC 106674 (Sub-No. 135 TA), filed May 9, 1974. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry J. Johnson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Drawer and cabinet wall facings, particle board, particle board with vinyl, plywood, phanolic backer sheets, and vinyl banding*, from the plantsite and warehouse facilities of Jessco, Inc., located in Dowagiac, Mich., to points in Alabama, Arkansas, Illinois, Indiana, Kentucky, North Carolina, Ohio, Pennsylvania, Tennessee, and Wisconsin and (2) *Particle board, plywood, and vinyl*, from points in the above states, to the plantsite and warehouse facilities of Jessco, Inc., located at Dowagiac, Mich., for 180 days. SUPPORTING SHIPPER: Jessco, Inc., P.O. Box 468, Dowagiac, Mich. 49047. SEND PROTESTS TO: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Ft. Wayne, Ind. 46802.

No. MC 107403 (Sub-No. 897 TA), filed May 9, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Creosote oil*, in bulk, in tank vehicles, from New Orleans, La., Commercial Zone, to points in Alabama, Arkansas, Mississippi, and Florida west of the Apalachicola River, for 180 days. SUPPORTING SHIPPER: Mr. M. B. Carbo, Jr., Southwest Regional Traffic Manager, Witco Chemical Corporation, P.O. Box 308, Gretna, La. 70053. SEND PROTESTS TO: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Bldg., 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 107496 (Sub-No. 953 TA), filed May 9, 1974. Applicant: RUAN TRANSPORT CORPORATION, Third St. and Keosauqua Way, P.O. Box 855 (Box zip 50304), Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Denatured alcohol*, in bulk, from Pekin, Ill., to Vicksburg, Miss., Owensboro, Ky., Durham, N.C., Murfreesboro, Tenn., Wyandotte, Mich., Bettendorf, Iowa, Terre Haute, Ind., and Newark, N.J., for 180 days. SUPPORTING SHIPPER: The American Distilling Co., Inc., South Front Street, Pekin, Ill. 61554. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 111170 (Sub-No. 214 TA), filed May 7, 1974. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, 2811 N. West Avenue, El Dorado, Ark. 71730. Applicant's representative: Tom E. Moore (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, liquid, in bulk, in tank vehicles, between El Dorado, Ark., including the plant site of Michigan Chemical Corporation and St. Louis, Mich., for 180 days. SUPPORTING SHIPPER: Michigan Chemical Corporation, 351 E. Ohio Street, Chicago, Ill. 60611. SEND PROTESTS TO: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 114457 (Sub-No. 194 TA), filed May 8, 1974. Applicant: DART TRANSIT COMPANY, a Corporation, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell

(same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pails and drums*, from Niles, Ohio, to points in Kansas, Iowa, Missouri, Wisconsin, Michigan, Illinois, Indiana, Kentucky, New York, Pennsylvania, West Virginia, Maryland, Delaware, Virginia, New Jersey, Massachusetts, Connecticut, and District of Columbia, restricted to traffic originating at the plantsite and storage facilities of Cleveland Steel Container at Niles, Ohio and destined to the named destinations, for 180 days. SUPPORTING SHIPPER: Cleveland Steel Container, 12818 Coit Road, Cleveland, Ohio 44108. SEND PROTESTS TO: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Bldg. & U.S. Courthouse, 110 So. 4th Street, Minneapolis, Minn. 55401.

No. MC 117940 (Sub-No. 127 TA), filed May 7, 1974. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and materials, supplies, equipment, and ingredients* used in the manufacturing, packaging, and distribution of frozen foods (except in bulk), between the plant and warehouse facilities of the Quaker Oats Company in or near Jackson, Tenn., on the one hand, and, on the other hand, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, Vermont, Wisconsin, and Washington, D.C., restricted to traffic originating at or destined to the plant and warehouse facilities of the Quaker Oats Company in or near Jackson, Tenn., for 180 days. SUPPORTING SHIPPER: The Quaker Oats Company, Merchandise Mart Plaza, Chicago, Ill. 60654. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 119880 (Sub-No. 60 TA), filed May 8, 1974. Applicant: DRUM TRANSPORT, INC., Off: 617 Chicago Street, P.O. Box 2056, East Peoria, Ill. 61611. Applicant's representative: B. N. Drum (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flavored syrups*, in bulk, in tank vehicles, from ports of entry between the United States and Mexico, located at or near Laredo, Tex., to Louisville, Ky.; Cincinnati, Ohio; Ponchatoula, La.; Sylacauga, Ala.; Cairo, Ga.; St. Louis, Mo.; and points in Illinois, for 180 days. SUPPORTING SHIPPER: Francisco Garcia Palacio, Delicias Tropicales, S.A., Apartado Postal No. 653, Nuevo Laredo, Tamaulipas, Mexico. 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 126305 (Sub-No. 59 TA), filed May 9, 1974. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., Route 1, Clayton, Ala. 36016. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm equipment, materials, and supplies* used, between Dothan, Ala., on the one hand, and, on the other, points in California, Washington, and Montana, for 180 days. SUPPORTING SHIPPER: Jones Farm Equipment Company, 2200 Montgomery Highway, Dothan, Ala. 36301. SEND PROTESTS TO: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 128356 (Sub-No. 7 TA), filed May 8, 1974. Applicant: DOWNINGTOWN TRAILER CARRIERS, INC., 640 West Boot Road, West Chester, Pa. 19380. Applicant's representative: Arnold Machles, Suite 1315, Two Penn Center Plaza, 15th and J. F. Kennedy Blvd., Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New trailers* (except for house trailers and trailers designed to be drawn by passenger autos) and *parts thereof* in truckaway service in initial movement and *used trailers* (except house trailers and trailers designed to be drawn by passenger autos) and *parts thereof* in secondary movement, from plants of Gindy Mfg. Corp. in Downingtown, Eagle, Honeybrook, and Lebanon, Pa. and Florence, N.J., to points in the United States in initial movement and from points in the United States to the said plants of Gindy Mfg. Corp., in secondary movement except authority already held from Downingtown, Lebanon, Honeybrook and Eagle, Pa., to points in New York, Ohio, West Virginia, Virginia, North Carolina, Maryland, Delaware, New Jersey, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and Illinois in initial movement and from points in those states to the said plant sites of Gindy Mfg. Corp. in secondary movement, for 180 days. SUPPORTING SHIPPER: Gindy Manufacturing Corporation, Downingtown, Pa. 19335. SEND PROTESTS TO: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Building, Room 3238, 600 Arch Street, Philadelphia, Pa.

No. MC 133542 (Sub-No. 4 TA), filed May 8, 1974. Applicant: FLOYD WILD, INC., P.O. Box 91, Route 2, Marshall, Minn. 56258. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, Wis., to Marshall, Minn., and return of *empty containers*, for 180 days. SUPPORTING SHIPPER: Grong Sales Co., Industrial Park, Marshall, Minn. 56258. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Court House, 110 South 4th St., Minneapolis, Minn. 55401.

No. MC 135152 (Sub-No. 13 TA), filed May 7, 1974. Applicant: CASKET DISTRIBUTORS, INC., Rural Route 2, West Harrison, Ind. 45030, and Mlg: P.O. Box 327, Harrison, Ohio 45030. Applicant's representative: Jack B. Josselson, 700 Atlas Bank Bldg., 524 Walnut Street, Cincinnati, Ohio 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated caskets, casket displays, funeral supplies, and crated caskets* in mixed loads with uncrated caskets, (1) from Boyertown, Pa., to El Paso and Ft. Worth, Tex.; Chicago and Quincy, Ill.; Green Bay, Wis.; Kansas City, Mo.; Atlanta, Ga.; Tampa, Fla.; Wooster, Mass.; and Sioux Falls, S. Dak., and (2) from points in Wythe County, Va., to New Haven, Conn.; Wycoff, N.J.; New York, N.Y.; Boston, Mass.; Philadelphia, Pa.; Baltimore, Md.; Atlanta, Ga.; Irwin, Tenn.; and Lancaster, Ky., for 180 days. SUPPORTING SHIPPERS: National Casket Co., Inc., P.O. Box 42, Lancaster, Ky. 40444, and Boyertown Burial Casket Co., 23 North Walnut Street, Boyertown, Pa. 19512. SEND PROTESTS TO: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 802 Century Bldg., 36 South Penn. St., Indianapolis, Ind. 46204.

No. MC 135773 (Sub-No. 2 TA), filed May 8, 1974. Applicant: DONALD E. SEARS, Route 1, Box 477, Woodland, Wash. 98674. Applicant's representative: Philip G. Skofstad, 3076 E. Burnside, Portland, Oreg. 97214. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Longview, Wash., to points in Alameda, Los Angeles, Orange, San Francisco, and Santa Clara Counties, Calif., for 180 days. SUPPORTING SHIPPER: Stahl Lumber Company, Inc., 3855 E. Washington Blvd., Los Angeles, Calif. 90023. SEND PROTESTS TO: W. J. Huetig, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 136949 (Sub-No. 3 TA), filed May 8, 1974. Applicant: BUESING BROS. TRUCKING, INC., N. 520 Tamarack Avenue, Long Lake, Minn. 55356. Applicant's representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, and crushed rock*, from points in Emmet County,

Iowa, to points in Jackson, Martin, and Faribault Counties, Minn., for 180 days. SUPPORTING SHIPPER: Hallet Construction Co., Inc., P.O. Box 90, St. Peter, Minn. 56082. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 138557 (Sub-No. 4 TA) (CORRECTION), filed April 1, 1974, published in the FEDERAL REGISTER issue of May 1, 1974, and republished as corrected this issue. Applicant: WALT KEITH TRUCKING, INC., Route #1, P.O. Box 30, Rushville, Mo. 64484. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501.

NOTE.—The purpose of this republication is to add Rhode Island, Virginia, Massachusetts, Georgia, and Texas, as additional destination states, which was omitted in previous publication. The rest of the application will remain the same.

No. MC 138643 (Sub-No. 4 TA), filed May 9, 1974. Applicant: MAKOVSKY BROTHERS, INC., Spring Mill Road, Whitehall, Pa. 18052. Applicant's representative: S. Maxwell Flitter, 151 South Seventh Street, Easton, Pa. 18042. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone*, in bulk, in dump trucks, from the plantsite of Warren Limestone Company, Oxford, Warren County, N.J., to Bath, Northampton County, Pa., for 180 days. SUPPORTING SHIPPER: Mr. Donald C. Miller, Traffic Manager, Keystone Portland Cement Company, Bath, Pa. 18014. SEND PROTESTS TO: F. W. Doyle, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Bldg., 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 139711 (Sub-No. 1 TA), filed May 7, 1974. Applicant: ROBERT C. DAVIS, P.O. Box 1290, Dexter, N. Mex. 88230. Applicant's representative: R. E. Richards, P.O. Box 1290, Hobbs, N. Mex. 88240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Livestock feeds and ingredients* (except liquids in bulk, in tank vehicles), between points in Lea, Chaves, Eddy, De Baca, Curry, Roosevelt, and Quay Counties, N. Mex., on the one hand, and, on the other, points within 25 miles of Amarillo, Dimmitt, Olton, Lubbock, De Leon, Waco, Seguin, Weslaco, Alpine, Ft. Stockton, and Pecos, Tex., Wiley, Colo., Casa Grande and Phoenix, Ariz., for 180 days. SUPPORTING SHIPPERS: Dimmitt Feedyard, Inc., G. R. Bagley, Manager, P.O. Box 638, Dimmitt, Tex. 79027; Olton Feedyards, Inc., Van E. Brimhall, Assistant Manager, P.O. Box 390, Olton, Tex. 79064; Wilbut Ellis Company, Inc., Sidney Arthur Lanier, Assistant Manager, P.O. Box 427, Clovis, N. Mex. 88101; Farm & Livestock Supply, Inc., Dwight Sharp, Secretary, Dexter, N. Mex. 88230; and Bowlby Feed and Pre-mix, Inc., Harold L. Bowley, Route 2, Box 164B, Roswell, N. Mex. 88201. SEND PROTESTS TO: William R. Murdoch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue, SW., Albuquerque, N. Mex. 87101.

No. MC 139741 (Sub-No. 1 TA), filed May 6, 1974. Applicant: D & D DISPOSAL SERVICES LIMITED, Box, 402, Beamsville, Ontario, Canada. Applicant's representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid and viscous waste commodities and sludge* in bulk, in tank vehicles, from the International Boundary line, between the United States and Canada at or near Lewiston, N.Y., to points in Erie, Niagara, and Monroe Counties, N.Y.; and (2) *Reclaimed liquid materials*, from Model City, N.Y., to the International Boundary line between the United States and Canada at or near Lewiston, N.Y., for the account of Chem-trol Pollution Services, Inc., for 90 days. SUPPORTING SHIPPER: Chem-trol Pollution Services, Inc., 1550 Balmer Road, P.O. Box 200, Model City, N.Y. 14107. SEND PROTESTS TO: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 612 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 139743 (Sub-No. 1 TA), filed May 3, 1974. Applicant: GEORGIA CARPET EXPRESS, INC., Tibbs Road, P.O. Box 1680, Dalton, Ga. 30720. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St. NW., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpets, carpeting, and yarn*, from points in Walker, Whitfield, Bartow, Gordon, Murray, Pickens, Chattooga, Hall, Gilmer, and Colquitt Counties, Ga., to points in Washington, Oregon, Nevada, Idaho, California, Wyoming, Utah, Arizona, Montana, and points in Colorado, New Mexico, North Dakota, and South Dakota on and west of U.S. Highway 85, for 180 days. SUPPORTING SHIPPERS: Talston Corporation, 3960 Peachtree Road NE., Atlanta, Ga. 30315; Galaxy Carpet Mills, Inc., Industrial Blvd., Chatsworth, Ga. 30871; Coronet Industries, Inc., P.O. Box 1248, Dalton, Ga. 30720; and E. T. Barwick Industries, Inc., 5025 New Peachtree Road, Chamblee, Ga. 30341. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1252 West Peachtree Street NW., Room 309, Atlanta, Ga. 30309.

MOTOR CARRIERS OF PASSENGERS

No. MC 139775 TA, filed May 6, 1974. Applicant: CITIES TRANSIT, INC., 415 South Ingraham Avenue, P.O. Box 1553, Lakeland, Fla. 33807. Applicant's representative: M. Craig Massey, 202 East Walnut Street, P.O. Drawer J, Lakeland, Fla. 33802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and baggage* in charter movement only, between points in Sarasota, Manatee, Polk, Pinellas, Hillsborough, Pasco, Osceola, and Orange Counties, Fla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. SUPPORTING SHIPPERS: There are approximately 13 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Palm Coast II Building, Suite 208 5255 NW. 87th Avenue, Miami, Fla. 33166.

No. MC 139776 TA, filed May 8, 1974. Applicant: ACUPUNCTURE SERVICES, INC., 109 Emery Street, Portland, Maine 04102. Applicant's representative: Frederick T. McGonagle, 36 Main Street, Gorham, Maine 04038. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special operations, between points in York, Cumberland, Androscoggin, Sagadahoc, and Kennebec Counties, Maine, and Boston, Mass., for 180 days. SUPPORTING SHIPPERS: There are approximately 38 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Portland, Maine 04112.

By The Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-11931 Filed 5-22-74;8:45 am]

[Notice 86]

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 June 12, 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–35457. By order entered May 16, 1974, the Motor Carrier Board approved the lease to Northland Marine Lines, Inc., Seattle, Wash., for a period of one year of that portion of the operating rights set forth in Certificate No. MC–124128 (Sub-No. 1), issued March 22, 1968, to Service Transfer, Inc., Sitka, Alaska, authorizing the transportation of general commodities, except those of unusual value, classes A and B explosives, livestock, commodities in bulk, and those requiring special equipment, between points in Juneau, Alaska. Alan F. Wohlstetter, 1700 K St. NW., Washington, D.C. 20006, attorney for applicants.

No. MC–FC–75011. By order of May 15, 1974, the Motor Carrier Board approved the transfer to Melella Co., a corporation, Woonsocket, R.I., of Certificate No. MC–60402 issued September 21, 1964, to Bourcier Bros., Inc., Woonsocket, R.I., authorizing the transportation of: Household goods, as defined by the Commission, and various other specified commodities, between specified points and areas in Massachusetts, and Rhode Island, and points in Maine, New Hampshire, Vermont, Rhode Island, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, and the District of Columbia. Robert H. Larder, attorney, 58 Hamlet Ave., Woonsocket R.I. 02895.

No. MC–FC–75048. By order entered May 15, 1974, the Motor Carrier Board approved the transfer to New Paltz Movers & Storage, Inc., New Paltz, N.Y., of the operating rights set forth in Certificates Nos. MC–38367 and MC–38367 (Sub-No. 4), issued by the Commission September 5, 1967, and January 29, 1970, respectively, to Smith Avenue Storage Warehouse Moving Co., Inc. (William M. Gruner, Trustee in Bankruptcy), Kingston, N.Y., authorizing the transportation of household goods as defined by the Commission, between Kingston, N.Y., and points in New York within 35 miles of Kingston, on the one hand, and, on the other, points in Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, Delaware, Maryland, Vermont, Virginia, and the District of Columbia; and between Saugerties, N.Y., and points within 20 miles of Saugerties, excluding those in Dutchess County, N.Y., on the one hand, and, on the other, points in New Hampshire and Ohio; and between Rhinebeck, N.Y., and points in New York east of the Hudson River within 15 miles of Rhinebeck, except Poughkeepsie, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, New Jersey, Pennsylvania, Rhode Island, and the District of Columbia. Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368, and William M. Gruner, 85 South Chestnut St., New Paltz, N.Y. 12561, attorneys for transferee and transferor, respectfully.

No. MC–FC–75113. By order entered May 15, 1974, the Motor Carrier Board approved the transfer to James B. Gray, Inc., Danforth, Maine, of the operating rights set forth in Certificates Nos. MC–135878 (Sub-No. 2) and MC–135878 (Sub-No. 4), issued by the Commission September 21, 1972, and February 19, 1974, respectively, to Averil W. Hunter, Florenceville, New Brunswick, Canada, authorizing the transportation of wood chips, from the port of entry on the United States-Canada Boundary line located near Houlton, Maine, to points in Maine; and from points in Maine to the ports of entry on the United States-Canada Boundary line at or near Houlton, Calais, Vanceboro, and Bridgwater, Maine. Theodore Polydoroff, 1250 Connecticut Ave. NW., Washington, D.C. 20036, attorney for applicants.

No. MC–FC–74320. By order of May 15, 1974, the Motor Carrier Board approved the transfer to John Kole, doing business as Johnson's Towing, Bellingham, Wash., of the operating rights in Certificate No. MC–134512 issued June 7, 1971, to Allen A. Johnson, doing business as Johnson's Towing, Bellingham, Wash., authorizing the transportation of wrecked and disabled automobiles, trucks, and buses between points in Whatcom, Skagit, and Island Counties, Wash., on the one hand, and, on the other, ports of entry on the United States-Canada Boundary line located in Washington. Gary M. Rusing, 207 BNB Bldg., Bellingham, Wash., 98225, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74–11930 Filed 5–22–74;8:45 am]

[Notice No. 40]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

MAY 17, 1974.

The following applications (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 Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 340 (Sub-No. 31), filed April 12, 1974. Applicant: QUERNER TRUCK LINES, INC., 1131–33 Austin Street, San Antonio, Tex. 78208. Applicant's representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite of and storage facilities utilized by American Beef Packers, Inc., at or near Cactus (Moore County), Tex., to points in California, Texas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, Tennessee, North Carolina, South Carolina, Illinois, Indiana, Kentucky,

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Michigan, Ohio, New York, New Jersey, Pennsylvania, Connecticut, Rhode Island, and Massachusetts, restricted to traffic originating at, and destined to, the named points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 730 (Sub-No. 364), filed April 12, 1974. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Corporation, 1417 Clay Street, P.O. Box 958, Oakland, Calif. 94604. Applicant's representative: Alfred G. Krebs (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, and those requiring special equipment), (1) Between Spanish Fork, Utah, and Houston, Tex.: From Spanish Fork over U.S. Highway 50 to junction U.S. Highway 163, thence over U.S. Highway 163 to junction U.S. Highway 666, thence over U.S. Highway 666 to junction Interstate Highway 40, thence over Interstate Highway 40 to junction Interstate Highway 25, thence over Interstate Highway 25 to junction Interstate Highway 10, thence over Interstate Highway 10 to junction U.S. Highway 290, thence over U.S. Highway 290 to Houston, and return over the same route, serving no intermediate points, with services at the junction of U.S. Highway 666 and Interstate Highway 40, and the junction of Interstate Highway 10 and 25 for the purposes of joinder only; (2) Between Pueblo, Colo., and Houston, Tex.: From Pueblo over Interstate Highway 25 to junction U.S. Highway 87, thence over U.S. Highway 87 to junction U.S. Highway 287, thence over U.S. Highway 287 to junction Interstate Highway 40, thence over U.S. Highway 287 to junction Interstate Highway 20, thence over Interstate Highway 20 to its junction with Interstate Highway 45, and thence over Interstate Highway 45 to Houston, and return over the same route (serving the intermediate points of Fort Worth and Dallas, Tex., with service at the junction of U.S. Highway 287 and Interstate Highway 40 for the purpose of joinder only).

(3) Between Riverside, Calif., and Memphis, Tenn. From Riverside over U.S. Highway 60 (Interstate Highway 10) to Quartzsite, Ariz., thence over U.S. Highway 60 to Arizona Highway 71, thence over Arizona Highway 71 to junction U.S. Highway 89, thence over U.S. Highway 89 to junction Interstate Highway 40 (U.S. Highway 66), thence over Interstate Highway 40 (U.S. Highway 66) to Oklahoma City, Okla., thence over Interstate Highway 40 to junction U.S. Highway 266, thence over U.S. Highway 266 (Interstate Highway 40) to junction U.S. Highway 64, thence over U.S. Highway 64 (Interstate Highway 40) to Memphis, and return over the same route, serving no intermediate points, with service at the junction of U.S. Highway 60 and California Highway 86, the junction of U.S. Highway 66 and Interstate Highway 40, and the junction of U.S. Highway 287 and Interstate Highway 40 for the purpose of joinder only; and (4) Between the junction of U.S. Highway 60 with California Highway 86 and Shreveport, La.: From the junction of U.S. Highway 60 and California Highway 86 over California Highway 86 to junction U.S. Highway 80 (Interstate Highway 8), thence over U.S. Highway 80 (Interstate Highway 8) to junction Interstate Highway 10, thence over Interstate Highway 10 to junction U.S. Highways 80 and 82, thence over U.S. Highway 82 to junction New Mexico Highway 18, thence over New Mexico Highway 18 to junction U.S. Highway 180, thence over U.S. Highway 180 to junction of U.S. Highway 80 (Interstate Highway 20), thence over U.S. Highway 80 (Interstate Highway 20) to Shreveport and return over the same route, serving the intermediate points of Fort Worth and Dallas, Tex., with service at the junction of U.S. Highway 60 and California Highway 86 and the junction of Interstate Highways 10 and 25 for the purpose of joinder only.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif., San Francisco, Calif., or Atlanta, Ga.

No. MC 1263 (Sub-No. 18), filed April 16, 1974. Applicant: McCARTY TRUCK LINE, INC., 17th and Harris, Trenton, Mo. 64683. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between St. Joseph, Mo., and Dawson, Nebr.: (1) From St. Joseph, Mo., over U.S. Highway 36 to junction U.S. Highway 73; thence over U.S. Highway 73 to Dawson, Nebr., and return over the same route, serving the intermediate point of Falls City, and the off-route points of Rulo, Barada, Shubert, Stella, Brownville, Peru, Humboldt, and Pawnee City, Nebr.; and (2) From St. Joseph, Mo., over U.S. Highway 36 to junction U.S. Highway 75; thence over U.S. Highway 75 to Dawson, Nebr., and return over the same route.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Joseph, Mo., or Omaha, Nebr.

No. MC 8959 (Sub-No. 27), filed April 15, 1974. Applicant: THE YOUNGSTOWN CARTAGE, a Corporation, 825 West Federal Street, Youngstown, Ohio 44501. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Iron and steel and iron and steel articles*, from the plantsite of Carpenter Technology Corporation at Reading, Pa., to points in Michigan, Indiana, and Illinois; and (B) *damaged and returned shipments of the above described commodities*, from Michigan, Indiana, and Illinois, to the plantsite and facilities of Carpenter Technology Corporation at Reading, Pa., restricted to traffic originating at and destined to the named origins and destination points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 11207 (Sub-No. 348), filed April 10, 1974. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: A. Alvis Layne, 915 Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition building boards*, from the facilities of Johns-Manville Corporation at or near Woodstock, Va., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Atlanta, Ga.

No. MC 11722 (Sub-No. 39), filed April 15, 1974. Applicant: BRADER HAULING SERVICE, INC., Post Office Box 655, Zillah, Wash. 98953. Applicant's representative: Douglas A. Wilson, 303 East "D" Street, Yakima, Wash. 98901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, from points in Toppenish, Sunnyside, and Moses Lake, Wash., to points in Oregon.

NOTE.—Applicant holds contract carrier authority in MC-124658 Subs 2 and 4, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Seattle, Wash.

No. MC 18738 (Sub-No. 44), filed April 12, 1974. Applicant: SIMS MOTOR TRANSPORT LINES, INC., 610 West 138th Street, Chicago (Riverdale), Ill. 60627. Applicant's representative: Eugene L. Cohn, One North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between the plantsite of Roll Coater, Inc., at or near Kingsbury, Ind., on the one hand, and, on the other, points in Indiana, Michigan, Illinois, Ohio, and Kentucky.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 22182 (Sub-No. 25), filed April 12, 1974. Applicant: NU-CAR CARRIERS, INC., 950 Haverford Road, P.O. Box 172, Bryn Mawr, Pa. 19010. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles and motor vehicle chassis*, in initial movements, in driveaway and

truckaway service, *and bodies, cabs, and parts of and accessories* for such vehicles, from points in Middlesex County, Mass., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Boston, Mass.

No. MC 26396 (Sub-No. 120), filed April 5, 1974. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, a Corporation, Box 990, Livingston, Mont. 59047. Applicant's representative: Jacob P. Billig, 1126 16th Street, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals*, (1) from Memphis, Tenn., and Arlington, Tenn., to points in Colorado, Idaho, Montana, North Dakota, Oregon, South Dakota, and Washington; and (2) from the plantsite and warehouse facility of Monsanto Company near Muscatine, Iowa, to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Virginia.

NOTE.—Applicant holds contract carrier authority in MC 136777 Sub-No. 3, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Missoula, Mont.

No. MC 28551 (Sub-No. 4), filed April 15, 1974. Applicant: GENERAL CARTAGE CO., a Corporation, 1511 Pearl Street, Waukesha, Wis. 53186. Applicant's representative: Homer A. Walls (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Used household goods as defined by the Commission;* (2) *business equipment and materials, equipment, and supplies* used or useful in the installation or maintenance of such equipment; and (3) *commodities* which because of size or weight require the use special equipment or special handling and *materials, parts, and supplies* incidental to the transportation, installation, or maintenance of such commodities, restricted against transportation on underslung trailers, between Milwaukee, Waukesha, Wis., on the one hand, and, on the other, points in Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Milwaukee or Madison, Wis., or Chicago, Ill.

No. MC 29886 (Sub-No. 309), filed April 8, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Crushing, breaking, and grinding machinery and equipment;* (2) *materials handling equipment, vibrators, feeders, and screens; and* (3) *parts and accessories for the commodities named in (1) and (2)*, from the plantsite of Jeffrey Mfg. Co., at or near Woodruff, S.C., to points in and east of Texas, Oklahoma, Kansas, Nebraska, South Dakota, and North Dakota.

NOTE.—Common control was approved in No. MC-F-11804. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 29886 (Sub-No. 310), filed April 12, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles weighing 15,000 pounds or more*, from points in Harry County, S.C., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 33641 (Sub-No. 115), filed April 18, 1974. Applicant: IML FREIGHT, INC., 2175 South 3270 West, Salt Lake City, Utah 84110. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. 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, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Denver, Colo. and Flagstaff Ariz.: From Denver, Colo., over U.S. Highway 285, to Monte Vista, Colo., thence over U.S. Highway 160 to junction U.S. Highway 550 near Durango, Colo., thence over U.S. Highway 550 to Shiprock, N. Mex., thence over New Mexico and Arizona, Highway 504 to junction U.S. Highway 164, thence over U.S. Highway 164 to junction U.S. Highway 89, thence over U.S. Highway 89 to Flagstaff, Ariz., and return over the same route; (2) between Kansas City, Mo., and Flagstaff, Ariz.: From Kansas City, Mo., over U.S. Highway 50 (I–35) to junction Kansas Turnpike near Emporia Kansas, thence over Kansas Turnpike (I–35) to junction U.S. Highway 85 near Wichita, Kansas, thence over U.S. Highway 54 to Tucumcari, N. Mex., thence over U.S. Highway 66 (I–40) to Flagstaff, Ariz., and return over the same route, (1) and (2) as alternate routes for operating conveniences only with the carrier's regular route operations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Kansas City, Mo.

No. MC 35045 (Sub-No. 18), filed April 17, 1974. Applicant: HORNE HEAVY HAULING, INC., P.O. Box 5358, Atlanta, Ga. 30307. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bucket elevators, screw conveyors, pulleys, idlers, material handling equipment and parts and accessories thereof*, from Tupelo, Miss., to points in the United States in and east of Minnesota, Iowa, Missouri, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., Memphis, Tenn., or New Orleans, La.

No. MC 35628 (Sub-No. 357), filed April 18, 1974. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a Corporation, 134 Grandville, SW., Grand Rapids, Mich. 49502. Applicant's representative: Leonard D. Vrdier, Jr., 900 Old Kent Building, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite of and warehouse facilities utilized by American Beef Packers, Inc., at or near Cactus (Moore County), Tex., to points in Nebraska, Kansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania, New Jersey, and New York, restricted to traffic originating at or near destined to the named points.

NOTE.—If a hearing is deemed necessary, appliacnt requests it be held at Omaha, Nebr., or Washington, D.C.

No. MC 36556 (Sub-No. 29), filed April 12, 1974. Applicant: BLACKMON TRUCKING, INC., P.O. Box 186, Somers, Wis. 53171. Applicant's representative: Fred H. Figge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canning factory materials, supplies, and equipment* (except in bulk, in tank vehicles), between Chilton, Jefferson, Menomonee Falls, Oconomowoc, and Waupun, Wis., on the one hand, and, on the other, points in Illinois (except points in Boone, Cook, Du Page, Kane, Lake, McHenry, Will, and Winnebago Counties), and St. Louis, Mo.; and (2) *tin plate*, from Gary, Hammond, and points in Porter County, Ind., to Menomonee Falls, Oconomowoc, and Waupun, Wis.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

No. MC 42318 (Sub-No. 38), filed March 25, 1974. Applicant: HOWARD HALL COMPANY, INC., 3433 North 35th Street, Birmingham, Ala. 35207. Applicant's representative: Maurice F. Bishop, 601–09 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beer, ale, and malt liquors* (except in bulk), from points in Dade and Duval

Counties, Fla., to points in Marengo County, Ala.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham or Montgomery, Ala.

No. MC 42487 (Sub-No. 820), filed April 11, 1974. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: Robert M. Bowden, Western Traffic Service, P.O. Box 3062, Portland, Oreg. 97208. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission commodities in bulk, and those requiring special equipment), between the junction of U.S. Highway 199 and Oregon Highway 99 (Interstate Highway 5) at Grants Pass, Oreg. and Santa Rosa, Calif.: From the junction of U.S. Highway 199 and Oregon Highway 99 over U.S. Highway 199 to its junction with U.S. Highway 101, thence over U.S. Highway 101 to Santa Rosa, Calif., and return over the same route as an alternate route for operating convenience only in connection with carrier's presently authorized regular-route operations, serving no intermediate points, but serving the junction of U.S. Highway 199 and 101 for the purpose of joinder only.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or San Francisco, Calif.

No. MC 51146 (Sub-No. 371), filed April 8, 1974. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Charles W. Singer, Suite 1000, 327 South La Salle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and potato products*, from points in Portage County, Wis., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 372), filed April 8, 1974. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Charles W. Singer, Suite 1000, 327 South La Salle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products*, from Seymour, Wis., to points in the United States (except Alaska and Hawaii), restricted to traffic originating at Seymour, Wis.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 373), filed April 8, 1974. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Novelty ice cream products and water ices* (other than in bulk) in mechanically refrigerated trucks, from Green Bay, Wis., to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Michigan, Illinois, Indiana, Mississippi, Alabama, Georgia, and Florida.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 52921 (Sub-No. 24), filed April 15, 1974. Applicant: RED BALL, INC., P.O. Box 520, Sapulpa, Okla. 74066. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 NW. 58, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, 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 (except hides and commodities in bulk, in tank vehicles), from the plant-site of and storage facilities utilized by American Beef Packers, Inc., located at or near Cactus (Moore County), Tex., to points in Alabama, Arkansas, Colorado, Florida, Georgia, Kansas, Louisiana, Oklahoma, Mississippi, and Texas, restricted to traffic originating at the above-named origin and destined to points in the above-named destination states.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 53965 (Sub-No. 93), filed April 11, 1974. Applicant: GRAVES TRUCK LINES, INC., 2130 South Ohio, Salina, Kans. 67401. Applicant's representative: John E. Jandera, 641 Harrison, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric located at or near Goddard, Kans., as an off-route point in connection with applicant's regular route operations via Wichita, Kans.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 57239 (Sub-No. 24), filed April 8, 1974. Applicant: RENNER'S EXPRESS, INC., 1350 South West Street, Indianapolis, Ind. 46206. Applicant's representative: Rudy Yessin, 314 Wilkinson Street, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) Between Glasgow, Ky., and Gallatin, Tenn.: From Glasgow over U.S. Highway 31–E to Gallatin; and (2) Between Gallatin, Tenn., and Nashville, Tenn.: From Gallatin over U.S. Highway 31–E to Nashville.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Louisville or Frankfort, Ky.

No. MC 63417 (Sub-No. 63), filed April 18, 1974. Applicant: BLUE RIDGE TRANSFER COMPANY, INC., 1814 Hollins Road, NE., P.O. Box 2888. Roanoke, Va. 24001. Applicant's representative: Nancy Pyeatt, 4200 Executive Building, 1030–15th Street, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Caskets and funeral supplies*, (1) from Lancaster, Ky., and Erwin, Tenn., to points in Delaware, Georgia, Illinois, Indiana, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Virginia; and (2) *damaged, defective, and returned shipments of caskets and funeral supplies*, from points in the above named destination states to Lancaster, Ky., and Erwin, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 74695 (Sub-No. 14), filed April 17, 1974. Applicant: SOUTHERN TRUCKING COMPANY, a Corporation, P.O. Box 5008, Greenville Station, Jersey City, N.J. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Compressed industrial gases*, in gas cylinders and tube trailers, from Linden, N.J., to Middletown, Cornwall, and points in Westchester County, N.Y.; and Philadelphia, and Conshohocken, Pa., and (2) *empty cylinders and trailers*, on return, under a continuing contract with Industrial Gases Division of Chemetron Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 75281 (Sub-No. 7), filed April 4, 1974. Applicant: RIGHTER TRUCKING COMPANY, INCORPORATED, 1238 Meadowbrook Lane, Cape Girardeau, Mo. 63701. Applicant's representative: Billy J. Oxford (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, and dangerous explosives, used household goods, commodities in bulk, and commodities requiring special equipment), (A) Between Paducah, Ky., and Mound City, Ill.: From Paducah over U.S. Highway 45 to junction Illinois Highway 169, and thence over Illinois

Highway 169 to junction Illinois Highway 37, thence over Illinois Highway 37 to Mound City, Ill., and return over the same route. (B) Between Caruthersville, Mo., and Sikeston, Mo.: From Caruthersville over Missouri Highway 84 to junction of U.S. Highway 61, thence over U.S. Highway 61 to Sikeston, Mo., and return over the same route.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 82841 (Sub-No. 145), filed April 15, 1974. Applicant: HUNT TRANSPORTATION, INC., 10770 I Street, Omaha, Nebr., 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and millwork*, from Spearfish, S. Dak., to points in Colorado, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Michigan, Nebraska, Ohio, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Rapid City, S. Dak.

No. MC 87720 (Sub-No. 161), filed April 15, 1974. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Flemington, N.J. 08822. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, closures, caps, covers, cartons, and carton parts and materials* used in the manufacture, sale, and distribution of glass containers, between the plantsite and facilities of Dart Industries, Inc., Thatcher Glass Manufacturing Co. Division, located at Lawrenceburg, Ind., on the one hand, and, on the other, points in Maryland and Pennsylvania, under contract or contracts with Dart Industries, Inc., Thatcher Glass Manufacturing Co. Division.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 94201 (Sub-No. 121), filed April 16, 1974. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, Ga. 30316. Applicant's representative: Maurice F. Bishop, 601–09 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Yarn, synthetic fiber yarns, tire cord yarn, and empty beams*, between the plantsite, warehouses, and storage facilities of Goodyear Tire & Rubber Company, located at or near Apple Grove, W. Va., on the one hand, and, on the other, Cedartown, Rockmart, and Cartersville, Ga., and Decatur and Scottsboro, Ala.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Akron, Ohio or Washington, D.C.

No. MC 94350 (Sub-No. 348), filed March 21, 1974. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Haywood Road at Transit Drive, Greenville, S.C. 29602. Applicant's representative: Mitchell King, P.O. Box 1628, Greenville, S.C. 29602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles in initial shipments, from points in Box Elder County, Utah, to points in Montana, Wyoming, Nevada, Colorado, New Mexico, Arizona, and Idaho.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Salt Lake City, Utah, or Detroit, Mich.

No. MC 95540 (Sub-No. 899), filed April 14, 1974. Applicant: WATKINS MOTOR LINES, INC., 1940 Monroe Drive, P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks, P.O. Box 1636, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs* from Presque Isle, Portland, and Caribou, Maine, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—Common control was approved in MC–F–7942 and MC–F–8308. If a hearing is deemed necessary applicant requests it be held at Washington, D.C.

No. MC 99780 (Sub-No. 37), filed April 5, 1974. Applicant: CLIPPER CARTAGE COMPANY, INC., a Corporation, 1327 NE. Bond Street, Peoria, Ill. 61603. Applicant's representative: John R. Zang (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery goods, frozen prepared foods, frozen juices, frozen fruits and vegetables, frozen meats, fish, and poultry*, from the plant site and facilities of Continental Freezers of Illinois, a Division of F. H. Prince and Company, Inc., at Chicago, Ill., to points in Indiana, Illinois, Michigan, and Ohio, and to that portion of Iowa bounded by U.S. Route 63 on the west, and the State Boundary lines on the north, east, and south including all of Waterloo, Cedar Falls, and Ottumwa, Iowa, and Louisville, Ky., restricted to the transportation of traffic originating at the above named origin and destined to the above named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 102616 (Sub-No. 900) (CORRECTION), filed March 11, 1974, published in the FEDERAL REGISTER issue of April 25, 1974, and republished as corrected this issue. Applicant: COASTAL TANK LINES, INC., P.O. Box 1555, Akron, Ohio 44309. Applicant's representative: Carl L. Steiner, 39 South La Salle Street. Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastics*, in bulk, from the plantsite of Foster Grant Company, Inc., at Chesapeake, Va., to points in the United States on and east of U.S. Highway 85.

NOTE.—The purpose of this correction is to indicate that the territorial description should be on and east of U.S. Highway 85, instead of in and east of U.S. Highway 85. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 103051 (Sub-No. 302), filed February 20, 1974. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave. North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from Pierce, Fla., to points in Georgia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Atlanta, Ga.

No. MC 103051 (Sub-No. 305), filed April 16, 1974. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave. North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in bulk, in tank vehicles, from Gainesville and Augusta, Ga., to Chattanooga, Tenn.

NOTE.—Common control may be involved. Dual operations may be involved also. If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga., or Nashville, Tenn.

No. MC 103051 (Sub-No. 307), filed April 19, 1974. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave. North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in bulk, in tank vehicles, from Macon, Ga., to points in Wisconsin.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Nashville, Tenn., or Atlanta, Ga.

No. MC 107295 (Sub-No. 711), filed April 15, 1974. Applicant: PRE–FAB TRANSIT CO., a Corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite of Bethlehem Steel Corporation, located at Lackawanna, N.Y., to points in Illinois, Indiana, the Lower Peninsula of Michigan, Ohio, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 107496 (Sub-No. 950), filed April 12, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O.

Box 855, Third at Keosauqua Way, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer solutions*, in bulk, (a) from Athens, Ill., and Louisiana, Mo., to points in Iowa, and (b), from Washington, Ind., to points in Illinois, and Kentucky; (2) *Dry fertilizer*, in bulk, *and dry fertilizer materials*, in bulk, from Burlington, Iowa to points in Illinois, Missouri, and Wisconsin; (3) *Cleaning, scouring and washing compounds*, in bulk, in tank vehicles, from Iowa City, Iowa to points in Texas; and (4), *Lime*, in bulk, from Davenport, Iowa, to Romeoville and Thornton, Ill.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 109397 (Sub-No. 295), filed April 16, 1974. Applicant: TRI STATE MOTOR TRANSIT CO., a Corporation, P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: Max G. Morgan; 600 Leininger Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Therapy pools, and parts, materials, equipment, and supplies* used in the installation thereof, from Sun Valley, Calif., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif., or Washington, D.C.

No. MC 109478 (Sub-No. 134), filed April 11, 1974. Applicant: WORSTER MOTOR LINES, INC., Rural Delivery #1, Gay Road, North East, Pa. 16428. Applicant's representative: Joseph F. Mackrell, 23 West Tenth Street, Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Hart, Holland, Lake Odessa and points in Montcalm County, Mich., to points in Maine, New Hampshire, Vermont, Connecticut, Rhode Island, Massachusetts, New York, New Jersey, Maryland, District of Columbia, West Virginia, Pennsylvania, Michigan, Illinois, Wisconsin, Minnesota, North Dakota, South Dakota, Iowa, and Nebraska.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 110325 (Sub-No. 60), filed April 15, 1974. Applicant: TRANSCON LINES, a Corporation, P.O. Box 92220, Los Angeles, Calif. 90009. Applicant's representative: Wentworth E. Griffin, 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Goddard, Kans., as an off-route point in connection with carrier's authorized regular-route operations at Wichita, Kans.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 111045 (Sub-No. 114), filed April 15, 1974. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, Fla. 33601. Applicant's representative: J. V. McCoy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon disulphide/sludge oil* (waste oil), from Lemoyne, Ala., to Baton Rouge, La.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Mobile, Ala., or New York, N.Y.

No. MC 111231 (Sub-No. 185), filed April 11, 1974. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, Ark. 72764. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric located at or near Goddard, Kans., as an off-route point in connection with applicant's regular route operations via Wichita, Kans.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 111302 (Sub-No. 76), filed April 19, 1974, Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, Tenn. 37919. Applicant's representative: Jerome F. Marks, 1940 Monroe Drive NE., P.O. Box 1636, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum, petroleum products, and petroleum derivatives including crude oil and crude oil products* in bulk, from points in Tennessee on and east of State Highway Route 56 to point in Kentucky; and (2) *petroleum, petroleum products, and petroleum derivatives including crude oil and crude oil products*, in bulk from points in Pulaski County, Ky., to points in Tennessee, North Carolina, Virginia, South Carolina, Alabama, Georgia, Mississippi, Florida, Ohio, West Virginia, Indiana, and Illinois.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 111729 (Sub-No. 429), filed April 8, 1974. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Critical replacement parts* for word processing equipment, restricted against the transportation of packages or articles weighing in the aggregate more than 100 pounds, from one consignor to one consignee on any one day, between Fort Wayne, Ind., on the one hand, and, on the other, Bowling Green, Defiance, Findlay, Fremont, Hicksville, Oak Harbor, Rawson, Sandusky, Tiffin, Toledo and Weston, Ohio; and Benton Harbor and Niles, Mich.; and (2) *business papers, records and audit and accounting media* of all kinds, between Fort Wayne, Ind., on the one hand, and, on the other, Bowling Green, Defiance, Findlay, Fremont, Hicksville, Oak Harbor, Rawson, Toledo, and Weston, Ohio; and Benton Harbor and Niles, Mich.

NOTE.—Common control may be involved. Applicant holds contract carrier authority in MC 112750 and Subs thereunder, therefore dual operations may also be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 112822 (Sub-No. 326), filed April 15, 1974. Applicant: BRAY LINES INCORPORATED, 1401 N. Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsite and warehouse facilities of Western Potato Service, Inc. located at Grand Forks, N. Dak., to points in Alabama, Colorado, Florida, Georgia, Louisiana, Mississippi, Oklahoma, and Texas, restricted to traffic originating at the above named origin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Omaha, Nebr.

No. MC 112822 (Sub-No. 327), filed April 15, 1974. Applicant: BRAY LINES INCORPORATED, 1401 N. Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, 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 (except hides, and commodities in bulk, in tank vehicles), from the plantsite of and storage facilities utilized by American Beef Packers, Inc., at or near Cactus, Tex. (Moore County), to points in Colorado, South Dakota, Nebraska, Michigan, Kansas, Missouri, Iowa, Minnesota, Indiana, Wisconsin, Illinois, Oklahoma, and Ohio, restricted to traffic originating at the named origin and destined to the named destination points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Albuquerque, N. Mex.

No. MC 113267 (Sub-No. 314), filed April 19, 1974. Applicant: CENTRAL AND SOUTHERN TRUCK LINES, INC., 3385 Airways Blvd., Suite 115, Memphis, Tenn. 38116. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Preserved food products*, in containers, and *canned food products*, (1) from Uniontown, Ala., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin, restricted to traffic originating at the above named origins, and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Memphis, Tenn.

No. MC 113362 (Sub-No. 272), filed April 5, 1974. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: James Ellsworth, 4500 North State Line Road, Texarkana, Ark. 75501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from the facilities of Allen Canning Company, located at or near Alma, Gentry, Van Buren, and Siloam Springs, Ark., and Kansas and Proctor, Okla., to points in Indiana and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Oklahoma City, Okla.

No. MC 113627 (Sub-No. 11), filed April 11, 1974. Applicant: COLUMBIA MOTOR FREIGHT, INC., 85 Kendall Street, New Haven, Conn. 06512. Applicant's representative: John E. Fay, West Hartford, Conn. 06110. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete slabs*, from Meriden, Conn., to job sites, construction sites and temporary storage areas at points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, and Delaware, under a continuing contract or contracts with CRW Systems, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Hartford, Conn., or Boston, Mass.

No. MC 113855 (Sub-No. 291), filed April 19, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road, SE., Rochester, Minn. 55901. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors, tractor attachments, and parts for tractors and tractor attachments*, from points in Spokane County, Wash., to points in the United States including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Spokane, or Seattle, Wash.

No. MC 113908 (Sub-No. 318), filed April 11, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Crude soybean oil*, in bulk, from Fredonia and Wichita, Kans., to Dallas, Tex. (2) *vinegar, vinegar stock, and vinegar stock concentrate* in bulk, from Nixa and Springfield, Mo., to points in Washington. (3) *animal and poultry feed, feed additives, feed ingredients, and feed supplements*, in bulk (except liquid animal and poultry feed supplements, in bulk, in tank vehicles, to points in Delaware and Maryland), from Springfield and Verona, Mo., to points in Delaware and Maryland.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo., Chicago, Ill., or Washington, D.C.

No. MC 114004 (Sub-No. 142), filed April 16, 1974. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Harold G. Hernly, 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, and *buildings*, in sections, from Idabel, Okla., to points in the United States including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant reqeusts it be held at Little Rock, Ark., or Washington, D.C.

No. MC 114273 (Sub-No. 181), filed April 12, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315 Commcrce Exchange Building, 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from Philadelphia, Pa., to points in Iowa, Minnesota, Missouri, Nebraska, Kansas, and Colorado.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114273 (Sub-No. 182), filed April 19, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar Exchange, Suite 315 Commerce Building, 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Iron and steel articles*, from the plantsite of C F and I Steel Corporation, located at Minnequa, Colo., to points in Minnesota, Iowa, Missouri, Wisconsin, Illinois, Michigan, Indiana, and Ohio.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114457 (Sub-No. 190), filed April 15, 1974. Applicant: DART TRANSIT COMPANY, a Corporation, 780 N. Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, trasporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from the plantsite and warehouse facilities of Wilson & Co., Inc., at Cedar Rapids, Iowa, to points in Indiana, Michigan, and Ohio, restricted to the transportation of traffic originating at the above named origins and destined to the named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn., or Oklahoma City, Okla.

No. MC 114457 (Sub-No. 191), filed April 15, 1974. Applicant: DART TRANSIT COMPANY, a Corporation, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet and carpet padding*, from Miami, Okla., to points in Illinois, Wisconsin, Minnesota, Iowa, and Indiana.

NOTE.—Common control was approved in MC–F–11921. If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minn., or Chicago, Ill.

No. MC 115162 (Sub-No. 288), filed April 12, 1974. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors, agricultural implements, farm machinery, and industrial and construction machinery and equipment, and parts and attachments for tractors, agricultural implements, farm machinery, and industrial and construction machinery and equipment, lawn and garden equipment, with parts and attachments*, from Coldwater, Ohio, to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and Missouri, restricted to traffic originating at the plantsites and warehouses of AVCO New Idea Farm Equipment Division, AVCO Distributing Corp., and destined to points in the states specified or to points in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Atlanta, Ga.

No. MC 115300 (Sub-No. 2) (AMENDMENT), filed February 8, 1974, published in the FEDERAL REGISTER issue of March 28, 1974, and republished as amended this issue. Applicant: CHARLES SIMMONS, SR., doing busi-

ness as HILTON HEAD TRUCK LINES, P.O. Box 1026, Hilton Head Island, S.C. 29928. Applicant's representative: J. Thomas Mikell, P.O. Box 1107, Beaufort, S.C. 29902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passengers, baggage, and express freight*, in packages, not to exceed 150 pounds each in weight; and (2) *Passengers and their baggage*, in charter operations, between Savannah, Ga., Levy, Hardeeville, Bluffton, Pritchardville, S.C., and points in Hilton Head Island, S.C.

NOTE.—The purpose of this republication is to amend the commodity description as stated herein. If a hearing is deemed necessary, applicant requests it be held at either Columbia, or Charleston, S.C.

No. MC 115669 (Sub-No. 140), filed April 5, 1974. Applicant: DAHLSTON TRUCK LINES, INC., P.O. Box 95, Clay Center, Nebr. 68993. Applicant's representative: Donald L. Stern, 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Catalyst*, between Scottsbluff, Nebr., and Coffeyville, McPherson, and Phillipsburg, Kans., and (2) *Chelates, fertilizer, fertilizer materials, and ingredients thereof*, from Hastings, Nebr. (except from plantsite of Farmland Industries, located near Hastings, Nebr.), to points in Colorado, Iowa, Kansas, South Dakota, and Wyoming, and (3) *chelates, fertilizer, fertilizer materials, and ingredients thereof*, from Great Bend, Kans., to points in Colorado, Illinois, Iowa, Minnesota, Missouri, Nebraska, Oklahoma, South Dakota, Wisconsin, and Wyoming, and (4) *foundry molding sand treating compounds*, in bags, *and water impedance boards*, from Belle Fourche, S. Dak., to points in Iowa, Kansas, Nebraska, and Oklahoma.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 115826 (Sub-No. 257), filed April 8, 1974. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, Colo. 80217. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Bldg., 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products*, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, between Wagner, S. Dak., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, Colorado, California, Florida, Georgia, Idaho, Nevada, North Dakota, North Carolina, New Mexico, Ohio, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Washington, Wisconsin, West Virginia, Wyoming, and South Dakota, restricted to shipments originating at the plantsite, of Yankton Sioux Industries, Wagner, S. Dak.

NOTE.—If a hearing is deemed necessary, applicant requests it be held as determined.

No. MC 115841 (Sub-No. 473), filed April 15, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 107 Vulcan Road, Second Floor, Homewood, Ala. 35209. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from 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 District of Columbia, restricted to traffic originating at and destined to the named points.

NOTE.—Common control was approved in MC-F-7304. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 115924 (Sub-No. 24), filed April 5, 1974. Applicant: SUGAR TRANSPORT, INC., P.O. Box 4063, Port Wentworth, Ga. 31407. Applicant's representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Citrus molasses distillers solubles*, in bulk, in tank vehicles, from Auburndale, Fla., to Port Wentworth, Ga., under continuing contract or contracts with Savannah Foods & Industries, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 116045 (Sub-No. 43), filed April 12, 1974. Applicant: NEUMAN TRANSIT CO., INC., P.O. Box 38, Rawlins, Wyo. 82301. Applicant's representative: Leslie R. Kehl, 1600 Lincoln Center Bldg., 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uranium slurry* concentrate, in bulk in tank vehicles, from points in Live Oak County, Tex., to points in Fremont County, Wyo.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 117644 (Sub-No. 37), filed March 29, 1974. Applicant: D & T TRUCKING CO., INC., P.O. Box 2611, New Brighton, Minn. 55112. Applicant's representative: William J. Boyd, 29 South La Salle Street, Suite 330, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Philadelphia, Pa., to points in Nebraska, Iowa, North Dakota, South Dakota, Minnesota, Wisconsin, Illinois, Indiana, Missouri, Michigan, and Ohio, under continuing contract with Mrs. Paul's Kitchens, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 117815 (Sub-No. 229), filed April 16, 1974. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 9th Floor, Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Fridley, Minn., to points in Iowa, Nebraska, Missouri, Kansas, Illinois (except Chicago), Michigan, and Indiana, restricted to shipments originating at the named origin and destined to points in the named destination states.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 117815 (Sub-No. 230), filed April 11, 1974. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 9th Floor, Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Bridgeport and Imlay City, Mich., to points in Iowa, Nebraska, Missouri, Kansas, and points in Illinois in the Davenport, Iowa-Rock Island and Moline, Illinois Commercial Zone, restricted to shipments originating at the facilities of Vlasic Foods, Inc., and destined to the above-named destination points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 118213 (Sub-No. 3), filed April 15, 1974. Applicant: ANTHONY TAMMARO, INC., U.S. Highway 130, Robbinsville, N.J. 08691. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bananas* and (2) *agricultural commodities* exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act, when transported in mined loads with bananas, (a) from Baltimore, Md., to points in Westchester, Nassau, and Suffolk Counties, N.Y., and New York, N.Y., points in Essex, Hudson, Bergen, Mercer, Middlesex, and Monmouth Counties, N.J., points in Philadelphia, Northampton, and Lackawanna Counties, Pa., and Fairfield County, Conn.; and (b), from New York, N.Y., Newark, N.J., and Wilmington, Del., to points in Nassau and Suffolk Counties, N.Y., Hudson, Middlesex, and Monmouth Counties, N.J., Lackawanna County, Pa., and Fairfield County, Conn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 118468 (Sub-No. 40), filed April 11, 1974. Applicant: UMTHUN

TRUCKING CO., a corporation, 910 South Jackson, P.O. Box 166, Eagle Grove, Iowa 50533. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building materials and cement pipe containing asbestos fiber*, from the plantsite and warehouse facilities of Johns-Manville Corporation, its divisions and subsidiaries at or near Waukegan and Joliet, Ill., to points in Iowa, Minnesota, Nebraska, and South Dakota, restricted against the transportation of commodities in bulk and commodities which by reason of size or weight require the use of special equipment, and restricted to traffic originating at the named plantsites and destined to points in the named destinations states, and further restricted to a transportation service to be performed under a continuing contract with Johns-Manville Corporation, its divisions and subsidiaries.

NOTE.—Applicant holds common carrier authority in MC–124813 Sub-No. 1 and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119340 (Sub-No. 5), filed April 11, 1974. Applicant: CENTRAL COAST TRUCK SERVICE, INC., P.O. Box AD, Watsonville, Calif. 95076. Applicant's representative: Michael Groom, 500 The Swenson Building, 777 North First Street, San Jose, Calif. 95112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs, condiments and other commodities*, manufactured and/or distributed by Amstar Corporation (except (a) those requiring transportation in vehicles equipped with mechanical refrigeration, and (b) commodities in bulk), from Manteca, Spreckels, and Woodland, Calif., to points in Oregon and Washington; (2) *commodities as described above*, which are rejected, outdated, obsolete and/or damaged, from points in Oregon and Washington, to Manteca, Spreckels, and Woodland, Calif., under continuing contract or contracts with Amstar Corporation, San Francisco, Calif.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 119741 (Sub-No. 49), filed April 15, 1974. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., R.F.D. 2, P.O. Box 1235, Fort Dodge, Iowa 50501. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible animal fats, animal oils, and vegetable oils including products and blends thereof*, with or without emulsifiers, preservatives, coloring, or additives, in packages, and *olemargarine*, in packages, from St. Louis, Mo., to points in Kansas, Nebraska, Iowa, Minnesota, North Dakota, South Dakota, and Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 119777 (Sub-No. 295), filed April 15, 1974. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer "L", Madisonville, Ky. 42431. Applicant's representative: Ronald E. Butler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Elevator, conveyor, and transmission belting and accessories thereof*, from Middletown, Conn., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant holds contract carrier authority in MC–126970 (Sub-Nos. 1 and 3), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 119864 (Sub-No. 56), filed April 15, 1974. Applicant CRAIG TRANSPORTATION CO., a Corporation, 26699 Eckel Road, Perrysburg, Ohio 43551. Applicant's representative: Dale K. Craig (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are distributed or dealt in by food distributors or wholesale and retail grocers* (except commodities in bulk), from the plant site and facilities of Fostoria Distribution Services Company, at or near Fostoria, Ohio, to points in Indiana, and points in Kentucky on and west of Interstate Highway 75, and on and north of Kentucky Highway 62, including Lexington, Ky.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 121586 (Sub-No. 1), filed April 16, 1974. Applicant: KRUSE TRANSPORTATION COMPANY, INC., P.O. Box 11035, Ames Avenue Station, Omaha, Nebr. 68111. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candy, advertising materials, and supplies and materials* used in the manufacture and distribution of candy, between Lincoln, Nebr., on the one hand, and, on the other, Olathe, Kans., Aurora, Colo., and Kansas City, Mo.; (2) *Castings, pumps, valves, and related advertising and company materials*, between Omaha, Nebr., on the one hand, and, on the other, Joplin, Mo., Coffeyville, Lyons and Hutchinson, Kans., Detroit, Mich., Bensonville, Peoria, and Chicago, Ill.; and (3) *General commodities* (except those requiring special equipment), (a) between points within 25 miles of Waterloo, Nebr., on the one hand, and, on the other, Omaha, Nebr.; (b) between points in Nebraska within 150 miles of Waterloo, Nebr., including Waterloo; and (c), between points within 50 miles of Yutan, Nebr., including Yutan, on the one hand, and, on the other, Omaha, Nebr.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 123115 (Sub-No. 11), filed April 18, 1974. Applicant: BEN PACKER, doing business as PACKER TRANSPORTATION CO., 465 South Rock Boulevard, Sparks, Nev. 89431. Applicant's representative: Ben Packer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings or houses*, knocked down or in sections, *parts and attachments thereof, and materials, equipment, and supplies* for the sale, distribution, and installation of buildings or houses, from Chehalis, Wash., to points in Nevada, and points in Alpine, Amador, El Dorado, Lassen, Placer, Plumas, Nevada, and Sierra Counties, Calif.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Carson City, or Reno, Nev.

No. MC 123407 (Sub-No. 171), filed April 15, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U. S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trusses, hardboard, insulating building, and roofing materials*, from Denver, Colo., to points in Wyoming, Nebraska, and South Dakota; and (2) *lumber, materials, and supplies* used in the manufacturing or distribution of the above described commodities, from points in Idaho, Washington, and Oregon, to Denver, Colo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo., or Washington, D.C.

No. MC 123407 (Sub-No. 172), filed April 15, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal buildings, metal building components, and supplies and equipment* used in the construction thereof, from the plantsites and warehouse facilities of Kirby Building Systems, Inc., Houston, Tex., and Lear Siegler, Inc., Cuckler Division, Monticello, Iowa, to points in Nebraska, Wyoming, and South Dakota, restricted to the transportation of traffic originating at or destined to the named origins and destinations.

NOTE.—Common control was approved in MC–FC–71814. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr., or Washington, D.C.

No. MC 123407 (Sub-No. 173), filed April 18, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over ir-

regular routes, transporting: *Building materials, and materials, equipment, and supplies* used in the manufacture, distribution, installation, and application of such commodities (except commodities in bulk), between the plantsite and storage facilities of the National Gypsum Company at or near Mobile, Ala., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia, restricted to traffic originating at said origins and destined to said destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Baton Rouge, La., or Washington, D.C.

No. MC 123639 (Sub-No. 157), filed April 11, 1974. Applicant: J. B. MONTGOMERY, INC., 5150 Brighton Boulevard, Denver, Colo. 80216. Applicant's representative: John F. DeCock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery* (except commodities in bulk, in tank vehicles), from Carol Stream, Ill., to points in Colorado, Iowa, Nebraska, and Kansas, including points in Missouri in the Kansas City, Mo.-Kansas City, Kans., Commercial Zone as defined by the Commission, restricted to traffic originating at the warehouse facilities of E. J. Brach & Sons, Division of American Home Products Corporation, at Carol Stream, Ill.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 123778 (Sub-No. 23), filed April 12, 1974. Applicant: JALT CORP., doing business as UNITED NEWSPAPER DELIVERY SERVICE, 75 Cutters Lane, Woodbridge, N.J. 07095. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magazines and advertising matter* shipped with magazines, (a) from Old Saybrook, Conn., to points in New Jersey, that part of New York on and south of New York Highway 5 between Syracuse and Schenectady and New York Highway 7 between Schenectady and the New York-Vermont State line, and on and east of U.S. Highway 11 between Syracuse and the New York-Pennsylvania State line, that part of Pennsylvania on and east of U.S. Highway 15, Wilmington, Del., Baltimore, Md., and the District of Columbia; and (b), from Woodbridge, N.J., to points in Pennsylvania on and east of U.S. Highway 15; (a) and (b) above, under contract with U.S. News and World Report; (c) from Woodbridge, N.J., to points in Connecticut, New Jersey, that part of New York on and south of New York Highway 5 between Syracuse and Schenectady and New York Highway 7 between Schenectady and the New York-Vermont State line, and on and east of U.S. Highway 11 between Syracuse and the New York-Pennsylvania State line, that part of Pennsylvania on and east of U.S. Highway 15, Wilmington, Del., Baltimore, Md., and the District of Columbia, under contract with Independent News Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 123872 (Sub-No. 29), filed April 11, 1974. Applicant: W & L MOTOR LINES, INC., State Road 1148, P.O. Drawer 2607, Hickory, N.C. 28601. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture;* and (2) *furniture parts*, from the plantsite and shipping facilities of Drexel Enterprises, Division of Champion International, located in Burke and McDowell Counties, N.C., to points in California, Oklahoma, New Mexico, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Charlotte or Hickory, N.C.

No. MC 124078 (Sub-No. 588), filed April 8, 1974. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prewett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Jet fuel, in bulk*, from Hammond, Ind., to Iron Mountain, Mich.; (2) *aviation gas*, from Milwaukee, Wis., to Negaunee, Mich.; (3) *diesel fuel, in bulk*, in tank vehicles, from Huron, Ohio, to points in Arkansas, Georgia, Illinois, Indiana, Kentucky, Michigan, Missouri, Tennessee, Texas, Virginia, and West Virginia; (4) *diesel fuel*, in bulk, in tank vehicles, from Atlanta, Ga., Charleston, W. Va., Dallas, Tex., Detroit, Mich., Fort Wayne, Ind., Grand Rapids, Mich., Houston, Tex., Indianapolis, Ind., Little Rock, Ark., Louisville, Ky., Memphis, Tenn., Nashville, Tenn., Peoria, Ill., Roanoke, Va., and St. Louis, Mo., to Huron, Ohio.

NOTE.—Applicant holds contract carrier authority in MC-113832 (Sub-No. 68), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio or Houston, Tex.

No. MC 124796 (Sub-No. 113), filed April 5, 1974. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Avenue, P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: J. Max Harding, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Buffing, polishing, cleaning, scouring, washing, and bleaching compounds, animal litter, and cooking oil* (except commodities in bulk), (a) from the plantsite and facilities utilized by The Clorox Company at or near Frederick, Md., to points in Pennsylvania, Virginia, West Virginia, Delaware, and the District of Columbia; and (b) from the plantsite and facilities utilized by The Clorox Company at or near Jersey City, N.J., to the plantsite and facilities utilized by The Clorox Company at or near Frederick, Md., Boston, Mass., and Charlotte, N.C.; (2) *cleaning compounds* (except commodities in bulk), from Lakewood, N.J., to the plant site and facilities utilized by The Clorox Company at or near Boston, Mass., and Frederick, Md.; (3) *aerosol products*, (a) from Piscataway, N.J., and Milford, Conn., to the plant site and facilities utilized by The Clorox Company at or near Boston, Mass., Frederick, Md., and Charlotte, N.C.; and (b) from Milford, Conn., to the plant site and facilities utilized by The Clorox Company at or near Jersey City, N.J.; (4) *materials, equipment, and supplies* utilized in the manufacture, sale, and distribution of buffing, polishing, cleaning, scouring, washing, and bleaching compounds (except commodities in bulk and those which by reason of size or weight require the use of special equipment), (a) from points in New Jersey, and Delaware, to the plant site and facilities utilized by the Clorox Company at or near Frederick, Md.; (b) from points in Delaware and Baltimore, Md., to the plant site and facilities utilized by the Clorox Company at or near Jersey City, N.J.; and (c) from Baltimore, Md., to the plantsite and facilities utilized by The Clorox Company at or near Boston, Mass., and Charlotte, N.C.

(5) *Charcoal, wood chips, vermiculite, lighter fluid and fireplace logs* (sawdust and wax impregnated) (except commodities in bulk), from the plant site and facilities utilized by the Clorox Company and its affiliates at or near Parsons and Ridgeley, W. Va.; to points in Connecticut, Delaware, Maryland, Massachusetts, Maine, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia; (6) *materials, equipment*, and *supplies* utilized in the manufacture, sale and distribution of charcoal, wood chips, vermiculite, lighter fluid, and fireplace logs (sawdust and wax impregnated), from Norfolk, Va., to the plant site and facilities utilized by the Clorox Company and its affiliates at or near Parsons and Ridgeley, W. Va.; (7) *lighter fluid* (except in bulk), from Paulsboro, N.J., to the plant site and facilities utilized by the Clorox Company and its affiliates at or near Parsons and Ridgeley, W. Va.; and (8) *foodstuffs*, not frozen, other than bulk, from West Chester and Kennett Square, Pa., to East Hartford, Conn., and New York, N.Y., under a continuing contract or contracts with the Clorox Company.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 125474 (Sub-No. 44), filed April 12, 1974. Applicant: BULK HAULERS, INC., P.O. Box 3601, Wilmington, N.C. 28401. Applicant's representative: Elliot Bunce, 618 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank trucks, from Wilmington,

N.C., and Columbus County, N.C., to points in South Carolina.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Wilmington N.C., Raleigh, N.C., or Washington, D.C.

No. MC 125616 (Sub-No. 9), filed April 12, 1974. Applicant: W. PAUL HENRY, 300 Robinwood Drive, Hagerstown, Md. 21740. Applicant's representative: Russell S. Bernhard, 1625 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Taneytown, Md., on the one hand, and, on the other, Dulles International Airport, located in Loudoun County, Va., restricted to traffic having an immediately prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, the application requests it be held at Washington, D.C.

No. MC 126489 (Sub-No. 25), filed April 15, 1974. Applicant: GASTON FEED TRANSPORTS, INC., P.O. Box 1066, Hutchinson, Kans. 67501. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed ingredients*, from the plantsite and/or storage facilities of FAR-MAR-CO., INC., located at or near Hutchinson, Kans., to points in Wyoming, Montana, North Dakota, South Dakota, Minnesota, Iowa, Wisconsin, Illinois, Colorado, Missouri, Nebraska, Oklahoma, Texas, Arkansas, and New Mexico.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 127185 (Sub-No. 5), filed April 11, 1974. Applicant: GATEWAY TRANSFER CO., INC., 1319 Santa Rita Avenue, Laredo, Texas 78040. Applicant's representative: Jerry Prestridge, P.O. Box 1148, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except liquid commodities, in bulk, and commodities requiring special equipment other than those because of size or weight), between Eagle Pass, Tex., on the one hand, and, on the other, points of entry on the International Boundary line between the United States and the Republic of Mexico at Eagle Pass, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Eagle Pass, San Antonio, or Dallas, Tex.

No. MC 127468 (Sub-No. 8) (AMENDMENT), filed March 22, 1974, published in the FEDERAL REGISTER issue, May 2, 1974 and republished as amended, this issue. Applicant: LTD, INC., 3250 South Western Avenue, Chicago, Ill. 60608. Applicant's representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical appliances, and equipment, and materials and supplies* used in the manufacture, sale, and distribution of electrical appliances and equipment, (1) between Chicago, Ill., Dumas, Ark., Coushatta, La., Forest and Waynesboro, Miss., Elkin, N.C., Denmark and Manning, S.C., Dayton, Knoxville, and McMinnville, Tenn., and Milwaukee, Wis., on the one hand, and, on the other, points in Orangeburg County, S.C., and Morrow, Ga., and (2) between points in Orangeburg County, S.C., on the one hand, and, on the other, Morrow, Ga., under contract with Sunbeam Corporation and John Oster Manufacturing Co.

NOTE.—The purpose of this republication is to include Morrow, Ga., as a terminal point in lieu of Atlanta, Ga. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 129350 (Sub-No. 44), filed April 15, 1974. Applicant: CHARLES E. WOLFE, doing business as EVERGREEN EXPRESS, Box 212, Billings, Mont. 59103. Applicant's representative: Clayton Brown (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products* (except commodities in bulk in tank vehicles), from points in Lewistown, Mont., to points in Minnesota, Wisconsin, and Michigan (except points in upper Michigan).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 129990 (Sub-No. 4), filed April 12, 1974. Applicant: AL GAZZOLLE AND SONS, INC., Pier 26 North River, New York, N.Y. 10009. Applicant's representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, N.Y. 10528. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automotive equipment and parts, fuel injection equipment and parts, industrial power tools and parts, diagnostic equipment for automobiles and parts, calibration benches and other test equipment* for fuel injection systems, *car radios and accessories, tires and rubber products*, in containers, from points in that part of the New York, N.Y., commercial zone as defined in the fifth supplemental report in *commercial zones and terminal areas*, 53 M.C.C. 451, within which local operations may be conducted under the exemption provision of section 203(b)(8) of the Act (the "exempt" zone), to shipper's facilities in Nassau and Suffolk Counties, N.Y., and shipper's facilities, located at or near Northvale, N.J., restricted to the transportation of traffic having an immediately prior or subsequent movement by water, under a continuing contract, or contracts, with Robert Bosch Corporation and Semperit of America, Inc.

NOTE.—Upon the granting of this authority, applicant will consent to revocation of MC-129990 Sub-No. 1, which duplicates in part the authority sought herein. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 135018 (Sub-No. 4), filed April 8, 1974. Applicant: SEAHORSE TRANSPORT, INC., No. 11 Southside Road, Port Brownsville, Tex. 78520. Applicant's representative: J. Max Harding, 605 South 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) *Materials, supplies and equipment* used in the manufacture, sale, and distribution of electrical motors and equipment, (a) from Cleveland, Ohio, Fort Wayne, Ind., and Chicago, Ill., to Brownsville, Tex., restricted to export traffic and (b) from Cleveland, Ohio, to Gainsville, Ga. (2) *electrical machinery* and *equipment*, (a) from Brownsville, Tex., to points in Illinois, Michigan, Kentucky, Wisconsin, Indiana, and Texas, restricted to import traffic and; (b) from Gainsville, Ga., to Cleveland, Ohio, all restricted against commodities in bulk or those which by reason of size or weight require the use of special equipment, under a continuing contract or contracts with VLN Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 135902 (Sub-No. 3), filed April 15, 1974. Applicant: KENNETH M. MOODY, doing business as K. M. Moody, 3100 Dogwood St., NW., Washington, D.C. 20015. Applicant's representative: David C. Venable, 805 McLachlen Bank Bldg., 666 11th St. NW., Washington, D.C. 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tires and tubes, and accessories for tires and tubes*, (1) between Cincinnati, Ohio, on the one hand, and, on the other, the District of Columbia, (2) between Akron, Cincinnati, Columbus, and Dayton, Ohio, on the one hand, and, on the other, facilities of, or used by Friend's Fleet & Tire Service, Inc., at or near Dickerson, Md., under contract with Friend's Fleet & Tire Service, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 134370 (Sub-No. 12) (CORRECTION), filed February 19, 1974, published in the FEDERAL REGISTER, issue April 11, 1974 and republished as corrected, this issue. Applicant: OSBORNE TRUCKING CO., INC., 1008 Sierra Drive, Riverton, Wyo. 82501. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, Wyo. 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, from Afton, Wyo., to points in Colorado, South Dakota and those points in that part of Nebraska on and west of U.S. Highway 83; (2) *lumber*, from Riverton, Wyo., to points in Colorado; (4) *lumber and lumber products*, from points in Montana, to points in Colorado; (5) *lumber*, from the facilities of U.S. Plywood Champion Papers, Inc., at or near Silver City and

Browning, Mont., to points in Arkansas, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Utah, and Wisconsin; (6) *lumber and lumber products*, from Evanston, Wyo., to points in that part of Nebraska located on and west of U.S. Highway 83, and points in Colorado; and (7) *lumber and lumber products*, from points in Montana, Wyoming, those in that part of Idaho in and north of Idaho County, those in Oregon on and west of U.S. Highway 97, and points in Washington in and west of the Cascade Mt. Range, to points in Arkansas, Colorado, Kansas, Idaho, Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, Utah, and Wisconsin.

NOTE.—The purpose of this republication is to show that the applicant no longer seeks authority in Item 3 which has been deleted in this notice of the authority actually sought. By the instant application, applicant seeks: (A) to convert its contract carrier permits in No. MC–133741 and Sub-Nos. 3, 8, 9, 11, and 15 described in (1) through (6) above respectively, to a Certificate of Public Convenience and Necessity; and (B) to extend its existing common carrier authority as described in (7) above. Dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Denver, Colo., Billings, Mont., or Casper, Wyo.

No. MC 135916 (Sub-No. 1), filed April 17, 1974. Applicant: ROBERT J. LITTLE, doing business as LITTLE'S DELIVERY SERVICE, P.O. Box 332, Crawfordsville, Ind. 47933. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter and equipment, materials and supplies* used in printing houses, between the plant site of R. R. Donnelley & Sons Company located at Crawfordsville, Ind., on the one hand, and, on the other, Weir Cook Airport located at Indianapolis, Ind., restricted to traffic having an immediately prior or subsequent movement by air, under contract or contracts with R. R. Donnelley & Sons Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 135982 (Sub-No. 7), filed April 12, 1974. Applicant: S. L. HARRIS, doing business as P.B.I., P.O. Box 7130, Longview, Tex. 75601. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers and trailer chassis* (other than those designed to be drawn by passenger automobiles), in secondary movements, between points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic originating at, or destined to, sites or storage facilities of Trailmobile Division of Pullman Incorporated.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Dallas, or Fort Worth, Tex.

No. MC 135898 (Sub-No. 2), filed April 16, 1974. Applicant: WILLIAM MIRRER, doing business as MIRRER'S TRUCKING CO., 38 Alan Ave., Glen Rock, N.J. 07452. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic granules* (except in bulk), between points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Rexene Polymers Co., Division of Dart Industries.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 136334 (Sub-No. 3), filed April 17, 1974. Applicant: KENDRICK MOVING AND STORAGE, INC., P.O. Box 209, Lebanon, Ohio 45036. Applicant's representative: James M. Burtch, 100 E. Broad St., Suite 1800, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic articles*, from the plantsite of Hamilton Plastic Company, located at or near Mason, Ohio, to points in Michigan, Pennsylvania, West Virginia, Illinois, Kentucky, Indiana, New York, and New Jersey; and (2) *materials* (except in bulk), used in the manufacture of plastic articles, on return under contract with Hamilton Plastic Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 136531 (Sub-No. 2) (CORRECTION), filed January 28, 1974, published in the FEDERAL REGISTER issue of March 7, 1974, and republished as corrected, this issue. Applicant: LUISI TRUCK LINES, INC., P.O. Box 606, New Walla Walla Highway No. 11, Milton-Freewater, Oreg. 97862. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned goods, frozen food, wine and malt beverages, and agricultural commodities* otherwise exempt when moving with said commodities, from points in Los Angeles, Orange, Riverside, Kern, Fresno, Madera, Merced, Stanislaus, San Joaquin, Santa Clara, Sacramento, San Benito, San Francisco, and Napa Counties, Calif., to points in Nyssa, Pendleton, and La Grande, Oreg., and Walla Walla, Wash., under continuing contract with La Grande Fruit Co.; and (2) *canned goods*, from Milton-Freewater, Oreg., and Walla Walla, Wash., to points in Bakersfield, Fresno, Modesto, Los Angeles, San Diego, San Jose, Stockton, Sacramento, San Francisco, Oakland, Alameda, Calif.; Las Vegas and Reno, Nev.; and Phoenix, Ariz., under continuing contract with Rogers Walla Walla, Inc.

NOTE.—The purpose of this republication is to correct the territorial description which was previously published incorrectly. Applicant holds common carrier authority in MC-136228 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 136757 (Sub-No. 1), filed April 8, 1974. Applicant: INTERSTATE ROAD RUNNER, INCORPORATED, 74-16 Grand Avenue, Maspeth, N.Y. 11378. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sheet tubing, electrical fittings, electrical conduit, microphone stands, pipe and fittings, lamp and lighting fixture parts, furniture accessories, and materials equipment and supplies used or useful in the manufacture, production, distribution, and sale of the above named commodities* (except commodities in bulk), between Zelienople, Pa., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic originating at or destined to the plant sites of or facilities used by Berger Industries, Inc., at or near Zelienople, Pa., and points within its commercial zone, and further restricted to the transportation of traffic moving under a continuing contract or contracts with Berger Industries, Inc., of Maspeth, N.Y.

NOTE.—Applicant states it already holds the identical authority between points in the United States (except Alaska and Hawaii), on the one hand, and, on the other, Maspeth, N.Y., Metuchen, N.J., and Chicago, Ill., and merely seeks to add to its existing authority the new facility at or near Zelienople, Pa. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 138452 (Sub-No. 3), filed March 28, 1974. Applicant: JOSEF T. KRAUS, doing business as JOSEF KRAUS TRUCKING CO., Route 2, Box 262–H, Sherwood, Oregon 97140. Applicant's representative: Philip G. Skofstad, 3076 E. Burnside, Portland, Oreg. 97214. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum molding, aluminum windows, aluminum doors, aluminum siding, aluminum coils, paste, paint, and sealer*, (a) between Gardena, Calif., and Meridian, Idaho; (b) between Gardena, Calif., and Aurora, Oreg.; (c) between Gardena, Calif., and Vancouver, Wash.; (d) between Meridian, Idaho, and Aurora, Oreg.; and (e) from Meridian, Idaho, to Hollister, Calif.; (2) *aluminum vents*, from Gardena and Compton, Calif., to Meridian, Idaho, and Aurora, Oreg.; and (3) *aluminum extrusions*, from Ontario, Calif., to Meridian, Idaho, and Aurora, Oreg.; (1), (2), and (3) above, under contract with Elixir Industries.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Portland, Oreg.

No. MC 138540 (Sub-No. 1), filed April 19, 1974. Applicant: BUTLER REFRIGERATED DELIVERY, INC., 609 Perry Highway, Pittsburgh, Pa. 15229. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, in vehicles equipped with mechanical refrigeration, from points in Butler County, Pa., to supermarkets operated by Giant Eagle Markets, Inc., located in Ohio and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 138875 (Sub-No. 17), filed March 14, 1974. Applicant: SHOEMAKER TRUCKING COMPANY, a Corporation, 11900 Franklin Road, Boise, Idaho 83705. Applicant's representative: F. L. Siglph, 1134 North Orchard Street, Suite 15, P.O. Box 7651, Boise, Idaho 83707. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, (1) from points in Utah, to points in Idaho, Nevada, Oregon, and Washington, and (2) from points in San Mateo, Santa Clara, and Alameda Counties, Calif., to points in Idaho.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho, or Salt Lake City, Utah.

No. MC 139136 (Sub-No. 1), filed April 11, 1974. Applicant: DANVILLE TRANSFER & STORAGE CO., INC., 12–18 College Street, Danville, Ill., 61832. Applicant's representative: Dana B. Throckmorton, 200 National Road, East Peoria, Ill. 61611. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General merchandise as is usually dealt in and handled by wholesale and retail establishments, including household appliances; new household furniture and household furnishings; musical instruments; plumbing and heating equipment, fixtures, accessories and supplies; office equipment, fixtures, accessories and supplies; building and remodeling equipment, accessories and supplies* (except in bulk), between Danville, Ill., on the one hand, and, on the other, points in Warren, Fountain, Montgomery, Vermillion, and Parke Counties, Ind., under contract with Sears, Roebuck and Company. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 139192 (Sub-No. 2) (CORRECTION), filed March 4, 1974, published in the FEDERAL REGISTER issue of April 18, 1974, and republished as corrected this issue. Applicant: JOHN PERRY, doing business as JOHN PERRY TRUCKING, 1535 Industrial Avenue, San Jose, Calif. 95112. Applicant's representative: Marvin Handler, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass parabolic antennas and mounts, parts, accessories, equipment, tools, and supplies*, necessary or incidental to the construction and maintenance and repair thereof, when included in the same vehicle with the antennas, from the plantsite of Prodelin, Inc., at Santa Clara, Calif., to points in Arizona, New Mexico, Texas, Oklahoma, Kansas, Missouri, Illinois, Tennessee, Oregon, Washington, Louisiana, and Arkansas, under continuing contact with Prodelin, Inc.

NOTE.—The purpose of republication is to indicate applicant's name as JOHN PERRY doing business as JOHN PERRY TRUCKING. If a hearing is deemed necessary, applicant requests it be held at either San Francisco or San Jose, Calif.

No. MC 139193 (Sub-No. 9), filed April 16, 1974. Applicant: ROBERTS & OAKE, INC., 208 South La Salle Street, Chicago, Ill. 60604. Applicant's representative: Jacob P. Billig, Suite 300, 1126 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, and meat by-products*, as defined by the Commission in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and liquid commodities in bulk), from Sioux Falls, S. Dak., and Humboldt, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; and (2) *such commodities* as are used by meatpackers in the conduct of their business, from points in the destination states described in (1) above to Humboldt, Iowa, and Sioux Falls, S. Dak., restricted to traffic transported under contracts with John Morrell & Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 139336 (Sub-No. 3), filed April 15, 1974. Applicant: TRANSTATES, INC., a Corporation, 2449 Marseilles Way, Costa Mesa, Calif. 92626. Applicant's representative: David P. Christianson, 825 City National Bank Bldg., 606 South Olive Street, Los Angeles, Calif. 90014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Fiberglass bathtubs and shower bathstalls* in carrier furnished trailers, from points in Orange County, Calif., to points in the United States (except Alaska and Hawaii), and *return of damaged fiberglass bathtubs and shower bathstalls*, from the destination states named above, to points in Orange County, Calif.; and (B) *materials, supplies, and equipment* used in the manufacture of fiberglass bathtubs and shower bathstalls, from points in the United States (except Alaska and Hawaii), to points in Orange County, Calif.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 139360 (AMENDMENT), filed March 11, 1974, published in the FEDERAL REGISTER issue of April 25, 1974, and republished in this issue as amended. Applicant: RAEMARC, INC., 1531 Taylor Avenue, Racine, Wis. 53403. Applicant's representative: Patrick H. Smith, Suite 1000, 327 S. LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts and materials* used in the manufacture of agricultural, industrial, and construction machinery and equipment; (1) between points in Illinois, Indiana, and Wisconsin on the one hand, and, on the other, the manufacturing and storage facilities of J. I. Case, located at or near Bettendorf and Burlington, Iowa; (2) between points in Illinois and Indiana, on the one hand, and, on the other, the manufacturing and storage facilities of J. I. Case, located at or near Racine, Wis.; (3) between points in Indiana and Wisconsin, on the one hand, and, on the other, the manufacturing and storage facilities of J. I. Case, located at or near Rock Island, Ill.; and (4) between points in Wisconsin and Illinois, on the one hand, and, on the other, the manufacturing and storage facilities of J. I. Case, located at or near Terre Haute, Ind.; (1) through (4) above, inclusive, under contract with J. I. Case.

NOTE.—The purpose of this republication is to amend the territorial description as states herein. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 139410 (Sub-No. 2), filed April 8, 1974. Applicant: MIKE PHILLIPS ENTERPRISES, INC., 301 S. Third St., Phoenix, Ariz. 85004. Applicant's representative: A. Michael Bernstein, 1327 United Bank Bldg., Phoenix, Ariz. 85011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carbonated beverages*, (a) from the plant site of Shasta Beverages at La Mirada, Calif., to points in Arizona, New Mexico and El Paso County, Tex., (b) from the plant site of Shasta Beverages at Phoenix, Ariz., to points in New Mexico and El Paso County, Tex.; and (2) *pallets*, from the destination areas described in (1) (a) and (b) above, to the plant sites of Shasta Beverages at Phoenix, Ariz., and La Mirada, Calif.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Los Angeles, Calif.

No. MC 139545 (Sub-No. 2), filed April 16, 1974. Applicant: HENRY C. KOCOT AND ANTHONY J. KOCOT, doing business as H. C. KOCOT & SONS, Whately Road, South Deerfield, Mass. 01373. Applicant's representative: David

M. Marshall, 135 State Street, Suite 200, Springfield, Mass. 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials, farm chemicals, seeds, and lawn and garden products*, between points in Massachusetts, Connecticut, Rhode Island, New Hampshire, Vermont, Maine, New York, Pennsylvania, New Jersey, Delaware, and Maryland, under contract with Kerr-McGee Chemical Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., Albany, N.Y., or Boston, Mass.

No. MC 139622 (AMENDMENT), filed March 18, 1974, published in the FEDERAL REGISTER issue of May 2, 1974, and republished as amended this issue. Applicant: INTERSTATE MOVING AND STORAGE, INC., 6965 Commerce Ave., El Paso, Tex. 79915. Applicant's representative: Hugh H. Trotter, Jr. (Same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by retail department stores, from the facilities of Montgomery Ward & Co., Inc., at El Paso, Tex., to points in Luna, Dona Ana, and Otero Counties, N. Mex., and El Paso and Hudspeth Counties, Tex., restricted to the transportation of traffic having a subsequent installation and/or set-up service; and (2) *return shipments* of the commodities described above, from the above named points, to the facilities of Montgomery Ward & Co., Inc., at El Paso, Tex., under a continuing contract in (1) and (2) above with Montgomery Ward & Co., Inc., El Paso, Tex.

NOTE.—The purpose of this republication is to more clearly indicate applicant's request for authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at El Paso or Amarillo, Tex., Albuquerque, N. Mex., or Dallas, Tex.

No. MC 139637 (Sub-No. 2), filed April 15, 1974. Applicant: HERDIS E. GAMMON, doing business as HERDIS E. GAMMON TRUCKING, 140 West Lincoln, Chandler, Ind. 47610. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Spencer, Warrick, Pike, and Vanderburgh Counties, Ind., to points in Webster and Henderson Counties, Ky.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Frankfort, Ky.

No. MC 139654, filed March 22, 1974. Applicant: JOHN VITRUK, doing business as, VITRUK'S MOTOR EXPRESS, 1103 Landmark Avenue, Cherry Hill, N.J. 08034. Applicant's representative: Harry J. Liederbach, 539 Street Road, Southampton, Pa. 18966. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chewing gum and products* related to the manufacture and marketing of same, from points in Philadelphia, Delaware, Montgomery, Bucks, Berks, and Chester Counties, Pa., and Pennsauken, N.J., to points in New York City, N.Y., Boston and Avon, Mass., the District of Columbia, New Jersey, Delaware, Maryland, Virginia, North Carolina, and South Carolina, under contract with Philadelphia Chewing Gum Corp., and Philadelphia Chewing Gum Corp., Clark Division; (2) *canned food products*, from points in Philadelphia, Delaware, Montgomery, Bucks, Berks, and Chester Counties, Pa., to points in New York City, N.Y., the District of Columbia, New Jersey, Delaware, Maryland, Virginia, North Carolina, and South Carolina, under contract with New England Fish Co., and Rema Foods Co.; (3) *candy and confectionery*, from points in Philadelphia, Delaware, Montgomery, Bucks, Berks, and Chester Counties, Pa., and Pennsauken, N.J., to points in New York City, N.Y., Boston and Avon, Mass., the District of Columbia, New Jersey, Delaware, Maryland, Virginia, North Carolina, and South Carolina, under contract with Reed Candy Co.; (4) *aerosol household products, plastic caps, spouts, dispensers, plastic tape dispensers and products* related to the manufacture and marketing of same, from points in Philadelphia, Delaware, Montgomery, Bucks, Berks, and Chester Counties, Pa., Baltimore, Md., and Newark, N.J., to points in New York City, N.Y., the District of Columbia, New Jersey, Delaware, Maryland, Virginia, North Carolina, and South Carolina, under contract with Reborn Products Co., and (5) *warehoused property*, from points in Philadelphia, Delaware, Montgomery, Bucks, Berks, and Chester Counties, Pa., to points in New York City, N.Y., Boston and Avon, Mass., the District of Columbia, New Jersey, Delaware, Maryland, Virginia, North Carolina, and South Carolina, under contract with Pennsylvania Warehousing Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Camden, N.J.

No. MC 139683, filed April 10, 1974. Applicant: ROSS BROS. TRANSPORTATION, INC., Box 103, Circle, Mont. 59215. Applicant's representative: Joe Gerbase, 100 Transwestern Building, Billings, Mont. 59101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Irrigation systems and parts thereof, and pumps*, from points in Valley, Nebr., and Clackamas and Portland, Oreg., and Spokane, Wash., to points in Montana and Wyoming, restricted to farm and ranch site deliveries, under contract with Polar Pump & Irrigation Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Billings, Mont.

No. MC 139690, filed April 10, 1974. Applicant: KELLERT'S INCORPORATED, Covey Road, Burlington, Conn. 06085. Applicant's representative: Walter C. Nicksa, Jr., 1783 Farmington Avenue, Unionville, Conn. 06085. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, wood chips, and horses*, between points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the Western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Hartford, Conn., Springfield or Boston, Mass.

No. MC 139691, filed April 15, 1974. Applicant: G & B MOVERS, INC., 838 39th Street, Brooklyn, N.Y. 11232. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets and rugs*, between the New York, N.Y., commercial zone, on the one hand, and, on the other, points in Bergen, Passaic, Hudson, Essex, Union, Middlesex, Somerset, Morris, and Monmouth Counties, N.J., and Fairfield County, Conn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 139697, filed April 11, 1974. Applicant: EDWARD BRUCE WAGONER, doing business as DELIGHT TRANSPORTATION COMPANY, Route 1, Box 12301, Kingsville, Md. 21087. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by a manufacturer of garden tractors, and *materials, supplies, and equipment* used in the conduct of such business, between South Bend, Ind., on the one hand, and, on the other, points in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, Virginia, North Carolina, South Carolina, Georgia, West Virginia, Ohio, Kentucky, Tennessee, Illinois, Wisconsin, Missouri, Iowa, Michigan, Minnesota, Texas, New Mexico, Arizona, California, Alabama, Arkansas, Colorado, Florida, Kansas, Louisiana, Mississippi, and Oklahoma.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 139699, filed April 11, 1974. Applicant: CROSBY HEAVY DUTY WRECKER, INC., 131 South Broadway, Green Bay, Wis. 54301. Applicant's representative: Michael J. Wyngaard, 329 West Wilson Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, damaged, disabled*, and *inoperative motor vehicles*,

and *replacement vehicles, and parts and equipment for the above-described vehicles,* between points in Brown, Calumet, Door, Florence, Forest, Kewaunee, Langlade, Manitowoc, Oconto, Outagamie, Waupaca, and Winnebago Counties, Wis., on the one hand, and, on the other, points in Illinois, Indiana, Alabama, Ohio, Iowa, Michigan, Minnesota, North Dakota, South Dakota, Nebraska, Kansas, Missouri, Kentucky, Tennessee, West Virginia, Virginia, North Carolina, South Carolina, Pennsylvania, New York, Georgia, and Mississippi.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Green Bay or Madison, Wis.

No. MC 139704, filed April 12, 1974. Applicant: JAMES E. WILLIAMS, doing business as WILLIAMS WRECKER SERVICE, 121 Center Avenue, Janesville, Wis. 54345. Applicant's representative: Michael J. Wyngaard, 329 West Wilson Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Wrecked, damaged, disabled, inoperative, stolen, repossessed, used, abandoned vehicles, and replacement vehicles, and parts and equipment* for commodities named above, between points in Dane, Green, Iowa, Jefferson, Kenosha, Rock, Walworth, and Lafayette Counties, Wis., on the one hand, and, on the other, points in Indiana, Iowa, Illinois, and Minnesota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Madison, Wis., or Milwaukee, Wis.

No. MC 139716 (Sub-No. 1), filed April 15, 1974. Applicant: TEXAS NEBRASKA EXPRESS, INC., 3903 West South Omaha Bridge Road, Council Bluffs, Iowa 51501. Applicant's representative: Robert V. Dwyer, Jr., 1601 Woodmen Tower, Omaha, Nebraska 68102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meat, meat products, 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 (except hides, and commodities in bulk, in tank vehicles), from the plantsite of, and storage facilities utilized by, American Beef Packers, Inc., at or near Cactus, Tex. (Moore County), to points in California, Mississippi, Alabama, Georgia, Florida, Tennessee, North Carolina, South Carolina, Illinois, Indiana, Kentucky, Michigan, Ohio, West Virginia, Virginia, Maryland, District of Columbia, Delaware, New Jersey, New York, Pennsylvania, Connecticut, Rhode Island, Vermont, New Hampshire, Massachusetts, and Maine, restricted to traffic originating at the named origin and destined to the named destination points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 139720, filed April 11, 1974. Applicant: WILLIAM R. TOMLINSON, doing business as TOMLINSON AUTO SERVICE, 1022 East Second Street, Ashland, Wis. 54806. Applicant's representative: Micheal J. Wyngaard, 329 West Wilson Street, P.O. Box 232, Madison, Wis. 53703. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Wrecked, damaged, disabled,* and *inoperative motor vehicles,* and *replacement vehicles,* and *parts* and *equipment for the above-described vehicles,* (1) between points in the Upper Peninsula of Michigan, and those points in Wisconsin, on and north of U.S. Highway 8; and (2) between points in the Upper Peninsula of Michigan, and those points in Wisconsin, on and north of U.S. Highway 8, on the one hand, and, on the other, points in North Dakota, South Dakota, Minnesota, Iowa, and Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Ashland or Superior, Wis.

No. MC 139722, filed April 15, 1974. Applicant: P. KERN CLAIR, R.D. #1, Osterburg, Pa. 16667. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Wood chips,* from points in New York, Maine, Massachusetts, Vermont, Pennsylvania, Ohio, Virginia, West Virginia, North Carolina, and South Carolina, to the plantsite of Appleton Paper Division of NCR, at Roaring Spring (Blair County), Pa.; (2) *wood chips,* from the plantsite of Appleton Paper Division of NCR, at (Roaring Spring), Blair County, Pa., to points in Ohio; (3) *furniture squares and parts,* from points in Jefferson County and Clearfield County, Pa., to points in North Carolina, South Carolina, Tennessee, and Virginia, under a continuing contract or contracts with Appleton Paper Division of NCR; Kitko Wood Products, and Brookville Wood Products.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 139725 (Sub-No. 1), filed April 22, 1974. Applicant: DYOLL DELIVERY SERVICE, INC., P.O. Box 66, Netcong, N.J. 07857. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Components parts of special ordnance equipment, component parts of radar and underwater sound devices, component parts of missile and missile handling equipment* for aircraft carriers, and *component parts of special machinery* manufactured to customer's specification, *pile hammers and parts, air and steam core drills and parts,* and *rough steel and iron castings* for such hammers and drills, between points in the United States in and west of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, under continuing contract with MKT Division.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Newark, N.J., or Washington, D.C.

No. MC 139737, filed April 15, 1974. Applicant: B. F. K. LINES, INC., 2344 Gardner Drive, St. Louis, Mo. 63136. Applicant's representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, Mo. 63105. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Frozen foodstuffs,* from Kansas City, Macon, Moberly, Carrollton, Marshall, Milan, and Sedalia, Mo., to points in Missouri, Illinois, Indiana, Ohio, Kentucky, Arkansas, Louisiana, Oklahoma, and Kansas; and (2) *foodstuffs and materials* not requiring protective service, from points in Missouri, Illinois, Indiana, Ohio, Kentucky, Arkansas, Louisiana, Oklahoma, and Kansas, to Macon, Moberly, Carrollton, Marshall, Milan, and Sedalia, Mo., under contract with Banquet Foods Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis or Kansas City, Mo., or Chicago, Ill.

No. MC 139747, filed April 19, 1974. Applicant: RIVARD QUALITY SEED, INC., Argyle, Minn. 56713. Applicant's representative: Arthur A. Drenckhahn, Box 159, Warren, Minn. 56762. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Soybean meal,* in bulk, (1) from Des Moines, Iowa, and Lincoln, Nebr., to the port or entry on the International Boundary between the United States and Canada, located at or near Noyes, Minn., and (2) from Savage, Mankoto, and Dawson, Minn., to the ports of entry on the International Boundary between the United States and Canada, located at or near Noyes, Minn.; (1) and (2) above, restricted to subsequent movement in foreign commerce, and also, under contract with Paramount Bio-Chemical Ltd.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Fargo, N. Dak.

No. MC 139751, filed April 15, 1974. Applicant: RAY WILSON, INC., P.O. Box 805, Hattiesburg, Miss. 39401. Applicant's representative: Donald B. Morrison, 717 Deposit Guaranty Bank Bldg., P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Metal container ends,* from the plant site and/or storage facilities of Rockford Can Company located at Rockford, Ill., to Pascagoula, Miss., under a continuing contract or contracts with Rockford Can Company, Rockford, Ill.

NOTE.—Applicant holds common carrier authority in MC-117998, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Jackson, Miss., or Memphis, Tenn.

PASSENGER APPLICATIONS

No. MC 59238 (Sub-No. 68), filed April 12, 1974. Applicant: VIRGINIA STAGE LINES, INC., 114 4th Street SE., Charlottesville, Va. 22901. Applicant's representative: James E. Wilson, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th St. NW., Washington, D.C. 20004. Authority sought to operate

as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between Front Royal, Va., and Staunton, Va.: From Front Royal over U.S. Highway 340 to junction Interstate Highway 66, thence over Interstate Highway 66 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction U.S. Highway 250, thence over U.S. Highway 250 to Staunton, and return over the same route, serving no intermediate points.

NOTE.—This application is filed pursuant to 49 C.F.R. 1042.1 *Superhighway Rules—Motor Common Carrier of Passengers*. If a hearing is deemed necessary, the applicant does not specify a location and requests it be handled under modified procedure.

No. MC 108531 (Sub-No. 17), filed April 5, 1974. Applicant: BLUE BIRD COACH LINES, INC., 502–504 North Barry Street, Olean, N.Y. 14760. Applicant's representative: Ronald W. Malin, Bankers Trust of Jamestown Building, Jamestown, N.Y. 14701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round trip charter operations, beginning and ending at points in Erie and Niagara Counties, N.Y., and extending to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 108570 (Sub-No. 6), filed April 15, 1974. Applicant: LITTEN & LITTEN MOTOR LINES, INC., 423 W. Antietam Street, Hagerstown, Md. 21740. Applicant's representative: Francis J. Ortman, 1100 17th Street, NW., Suite 613, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers*, between Charles Town, W. Va., and Penn National Race Course, Pa.: From Charles Town, W. Va., over West Virginia Highway 9 to Martinsburg, W. Va., thence over Interstate Highway 81 to its junction with Pennsylvania Highway 743, thence over Pennsylvania Highway 743 to Penn National Race Course, Pa., and return over the same route, serving the intermediate points of Martinsburg, W. Va., and Hagerstown, Md., restricted against the transportation of passengers between Martinsburg, W. Va., on the one hand, and, on the other, Hagerstown, Md.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Hagerstown, Md., or Washington, D.C.

BROKERAGE APPLICATION

No. MC 130239, filed April 11, 1974. Applicant: WILLIAM DANIEL DIPERT—ARTEX TOURS, 201 E. Abrams, P.O. Box 310, Arlington, Tex. 76010. Applicant's representative: William Daniel Dipert (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Arlington, Tex., to sell or offer to sell the transportation of, *groups of passengers and their baggage*, on tours, from Arlington, Dallas, and Fort Worth, Tex., and Little Rock, Conway, Fort Smith, and Pine Bluff, Ark., to points in the United States including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex., Little Rock, Ark., or Oklahoma City, Okla.

WATER CARRIER APPLICATION

No. W 417 (Sub-No. 23), filed April 5, 1974. Applicant: WEYERHAEUSER COMPANY, a Corporation, Tacoma, Wash. 98401. Applicant's representative: John Cunningham, 1776 F Street NW., Washington, D.C. 20006. Authority sought to engage in operation, in interstate or foreign commerce as a *common carrier by water* in the transportation of *lumber and lumber products*, by non self-propelled vessels with the use of separate towing vessels, from ports and points on Humboldt Bay, Calif., and those Pacific coast ports named in Appendix A to applicant's ninth amended certificate, which are: Aberdeen, Wash., Anacortes, Wash., Bellingham, Wash., Blaine, Wash., Everett, Wash., Hoquiam, Wash., Kaloma, Wash., Knappton, Wash., Longview, Wash., Mt. Vernon, Wash., Mukilteo, Wash., Olympia, Wash., Port Angeles, Wash., Port Gamble, Wash., Port Ludlow, Wash., Port Townsend, Wash., Raymond, Wash., Stanwood, Wash., Seattle, Wash., South Bend, Wash., Tacoma, Wash., Vancouver, Wash., Astoria, Oreg., Bradwood, Oreg., Coos Bay, Oreg., Empire, Oreg., Linnton, Oreg., Newport, Oreg., North Bend, Oreg., Portland, Oreg., Prescott, Oreg., Rainier, Oreg., St. Helens, Oreg., Warrenton, Oreg., Wauna, Oreg., Westport, Oreg., Youngs Bay, Oreg., Alameda, Calif., California City, Calif., Long Beach, Calif., Los Angeles Harbor, Calif., Martinez, Calif., Oakland, Calif., Richmond, Calif., San Francisco, Calif., Stockton, Calif., San Pedro, Calif., and Wilmington, Calif., to Port Everglades, Fla., and the Atlantic coast ports named in said Appendix A, which are: Boston, Mass., New Bedford, Mass., Portsmouth, R.I., Bridgeport, Conn., New London, Conn., Brooklyn, N.Y., New York Harbor, N.Y., Bayway, N.J., Bayonne, N.J., Camden, N.J., Carneys Point, N.J., Claremont, N.J., Edgewater, N.J., Hoboken, N.J., Jersey City, N.J., Kearney, N.J., Newark, N.J., Port Newark, N.J., Trenton, N.J., Weehawken, N.J., Chester, Pa., Philadelphia, Pa., Marcus Hook, Pa., Wilmington, Del., Baltimore, Md., Sparrows Point, Md., Newport News, Va., Norfolk, Va., and Portsmouth, Va.

NOTE.—Common control may be involved. Applicant requests to revise certificate only by seeking authority to utilize tug and barge equipment in eastbound operations for which it now holds self-propelled vessel authority. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Seattle, Wash.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74–11858 Filed 5–22–74;8:45 am]

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PART II

DEPARTMENT OF DEFENSE

Office of the Secretary

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INFORMATION SECURITY PROGRAM REGULATION

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER D—SECURITY

PART 159—INFORMATION SECURITY PROGRAM REGULATION

This Part 159 governing the classification, downgrading, declassification and safeguarding of classified information is issued under the authority of and pursuant to Secretary of Defense DoD Directive 5200.1, "DoD Information Security Program," June 1, 1972 (§ 159.100(a)). This Part 159, revised as set forth below, supersedes and cancels Part 159 dated July 15, 1972 (37 FR 15655). This revision has been approved by the Interagency Classification Review Committee as required by Executive Order 11652 and the National Security Council Directive issued pursuant thereto. The majority of the changes are editorial in nature. There are, however, several progressive and substantive changes which have been developed. The more significant changes are: Section 159.105 imposes more restrictive guidelines for the designation of original classification authorities; § 159.203.5 requires that when a security classification guide or revision thereof is published which exempts certain information from the General Declassification Schedule, the Top Secret classification authority who approved, authorized or sanctioned such exemption will be identified on the guide; § 159.301–1 is designed to automatically downgrade certain old material at 12 year intervals which would otherwise be frozen at the original classification level under the provision of the Executive Order; § 159.304–2 is revised to accelerate the declassification of information placed in exemption category 3 pursuant to E.O. 11652. As modified, this paragraph provides for the automatic declassification of information on scientific and technical matters, installations, programs, etc., at the end of 15 calendar years vs. the 30 years prescribed under the previous provisions; § 159.306–3 provides guidelines for the declassification of certain categories of encrypted messages in order to expedite the declassification process; Subpart—Transmission establishes DoD policy and procedures for the hand-carrying of classified material through airline and anti-hijacking inspection points; and § 159.1500, Appendix A, has been revised to reflect the current designations of original Top Secret classification authorities.

[SEAL] TERENCE E. MCCLARY,
Asistant Secretary of Defense.

MAY 8, 1974.

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AUTHORITY: EO 11652 of March 8, 1972, 37 FR 5209, March 10, 1972; National Security Council Directive of May 17, 1972 Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information, 37 FR 10053, May 19, 1972; sec. 301, 80 Stat. 379; (5 U.S.C. 301).

Subpart—General Provisions

REFERENCES

§ 159.100 References.

(a) DoD Directive 5200.1, "DoD Information Security Program," June 1, 1972.[1]

(b) Executive Order 11652, "Classification and Declassification of National Security Information and Material," dated March 8, 1972 (37 FR 5209, Mar. 10, 1972).

(c) National Security Council "Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information," dated May 17, 1972 (37 FR 10053, May 19, 1972).

(d) DoD Directive 5230.9, "Clearance of Department of Defense Public Information," dated December 24, 1966.[1]

(e) DoD Directive C–5200.5, "Communications Security (U)," dated April 13, 1971.[2]

(f) DoD Instruction 5200.22, "Reporting of Security and Criminal Violations," dated November 8, 1973.[1]

(g) DoD Directive 5210.50, "Investigation of and Disciplinary Action Connected with Unauthorized Disclosure of Classified Defense Information," dated April 29, 1966.[1]

(h) DoD Directive 5210.8, "Policy on Investigation and Clearance of DoD Personnel for Access to Classified Defense Information," dated February 15, 1962 (Reprint March 1, 1966).[1]

(i) DoD Directive 5400.4, "Provision of Information to Congress," dated February 20, 1971.[1]

(j) DoD Directive 7650.1, "General Accounting Office Comprehensive Audits," dated July 9, 1958.[1]

(k) DoD Directive 5220.22, "DoD Industrial Security Program," dated July 30, 1965.[1]

(l) DoD Directive 5230.11, "Disclosure of Classified Military Information to Foreign Governments and International Organizations," dated June 19, 1973.[1]

(m) DoD Directive 5200.15, "Controlling the Dissemination and Use of Intelligence and Intelligence Information Produced by Members of the Intelligence Community," dated July 26, 1962.[2]

(n) DoD Directive 5210.2, "Access to and Dissemination of Restricted Data," dated October 18, 1968.[1]

(o) DoD Instruction C–5210.21, "Implementation of NATO Security Procedure (U)," dated December 17, 1973.[2]

(p) DoD Instruction C–5210.35, "Implementation of CENTO Security Regulation (U)," dated June 5, 1968.[2]

(q) DoD Instruction 5210.54, "Implementation of SEATO Security Manual (U)," dated September 27, 1967.[2]

(r) DoD Directive 5400.7, "Availability to the Public of DoD Information," dated June 23, 1967.[1]

(s) DoD Instruction 7230.7, "User Charges", dated July 18, 1973.[1]

(t) DoD Directive 5220.6, "Industrial Personnel Security Clearance Program," dated December 7, 1966.[1]

(u) Joint Army-Navy-Air Force Publication (JANAP) #119 December 1970 and #299 September 1971.

(v) Allied Communication Publications (ACP) #119A August 1970.

(w) National Security Agency KAG I–D December 1967.

(x) DoD Directive S–5200.17, "The Security, Use and Dissemination of Communications Intelligence (COMINT) (U)," dated January 26, 1965.[2]

(y) DoD Directive 5535.2, "Secrecy of Certain Inventories and Withholding of Patent; Delegation of Authority to Secretaries of Army, Navy, and Air Force," dated September 30, 1966.[1]

(z) DoD Directive 5200.12, "Security Measures, Approval and Sponsorship for Scientific and Technical Meetings Involving Disclosure of Classified Information," March 7, 1967.[1]

(aa) DoD Directive 5000.7, "Official Temporary Duty Travel Abroad," dated January 14, 1972.[1]

(bb) DoD 5220.22–R, "DoD Industrial Security Regulation".[1]

PURPOSE AND APPLICABILITY

§ 159.101 Purpose.

To insure that official information of the Department of Defense relating to National Security (as used hereafter, a collective term encompassing both national defense and foreign relations of the United States) is protected, but only to the extent and for such period as is necessary, this regulation establishes the bases for identification for information to be protected; prescribes a progressive system for classification, downgrading and declassification; prescribes safeguarding policies and procedures to be followed; and establishes a monitoring system to insure the effectiveness of the Information Security Program throughout the Department of Defense.

§ 159.101–1 Applicability.

This regulation governs the Department of Defense Information Security Program and takes precedent over all departmental publications affecting that program. In accordance with the provisions of § 159.100 (b) and (c), it establishes for uniform application throughout the Department of Defense, the policies, standards, criteria and procedures for the security classification, downgrading, declassification and safeguarding of official information or material originated, produced or handled by, or under the sponsorship of, the Department of Defense or components thereof.

§ 159.101–2 Non-government operations.

Except as otherwise provided herein, the provisions of this regulation shall be made applicable by contract, or other legally binding instrument, to operations of non-government personnel entrusted with classified information.

§ 159.101–3 Combat operations.

The provisions of this regulation with regard to accountability, dissemination, transmission, or safekeeping of classified information or material may be modified as necessary to meet local conditions by military commanders in connection with combat or combat-related operations. Classified information or material should be introduced into forward combat areas or zones only to the extent essential to accomplishment of the military mission. When so introduced, the appropriate military commander shall provide the degree of protection prescribed by this regulation for the classification involved as nearly as the circumstances permit.

§ 159.101–4 Atomic Energy Act.

Nothing in this regulation shall supersede any requirements made by or under the Atomic Energy Act of August 30, 1954, as amended. "Restricted Data," and material designated as "Formerly Restricted Data," shall be handled, protected, classified, downgraded and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission.

§ 159.101–5 Exceptions.

(a) For material under his special cognizance, the Director, National Security Agency, shall prescribe for the internal handling of such material such special procedures as may be necessary to conform to policies and standards prescribed for NSA by higher authority outside the DoD. Other (collateral) materials brought into areas under his special cognizance may be handled in the same manner as special materials, in lieu of the requirements of this regulation. When returned to normal channels such materials shall be subject to the controls of this regulation, including maintaining Records of Destruction as required by § 159.900–2.

[1] Filed as part of the original Copies available from U.S. Naval Publication and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.

[2] Classified document. Not available to the public.

(b) Provisions for security, use and dissemination of Communications Intelligence (COMINT) are governed by DoD Directive S-5200.17, § 159.100(x).

DEFINITIONS

§ 159.102 Definitions.

As used herein, the following terms and meanings shall be applicable:

§ 159.102-1 Classification.

The determination that official information requires, in the interests of national security, a specific degree of protection against unauthorized disclosure, coupled with a designation signifying that such a determination has been made.

§ 159.102-2 Classified information.

Official information which has been determined to require, in the interests of national security, protection against unauthorized disclosure and which has been so designated.

§ 159.102-3 Classifier.

An individual who either:

(a) Determines that official information, not known by him to be already classified, currently requires, in the interests of national security, a specific degree of protection against unauthorized disclosure and having the authority to do so, designates that official information as Top Secret, Secret or Confidential; or

(b) Determines that official information is in substance the same as information known by him to be already classified by the government as Top Secret, Secret or Confidential and designates it accordingly.

§ 159.102-4 Component.

The Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the unified and specified commands, and the Defense Agencies.

§ 159.102-5 Compromise.

The known or suspected exposure of classified information or material to an unauthorized person.

§ 159.102-6 Custodian.

An individual who has possession of or is otherwise charged with the responsibility for safeguarding and accounting for classified information.

§ 159.102-7 Declassification.

The determination that classified information no longer requires, in the interests of national security, any degree of protection against unauthorized disclosure, coupled with a removal or cancellation of the classification designation.

§ 159.102-8 Document.

Any recorded information regardless of its physical form or characteristics, including, without limitation, written or printed material; data processing cards and tapes; maps, charts; paintings; drawings; engravings; sketches; working notes and papers; reproductions of such things by any means or process; and sound, voice or electronic recordings in any form.

§ 159.102-9 Downgrade.

To determine that classified information requires, in the interests of national security, a lower degree of protection against unauthorized disclosure than currently provided, coupled with a changing of the classification designation to reflect such lower degree.

§ 159.102-10 Formerly Restricted Data.

Information removed from the Restricted Data category upon determination jointly by the Atomic Energy Commission and Department of Defense that such information relates primarily to the military utilization of atomic weapons and that such information can be adequately safeguarded as classified defense information. Such information is, however, treated the same as Restricted Data for purposes of foreign dissemination.

§ 159.102-11 Information.

Knowledge which can be communicated by any means.

§ 159.102-12 Material.

Any document, product or substance on or in which information may be recorded or embodied.

§ 159.102-13 Official information.

Information which is owned by, produced for or by, or is subject to the control of the United States Government.

§ 159.102-14 Original classification authority.

Original classification authority is the authority to make original classifications vested specifically and in writing in an official of the Government as the incumbent of an office and in the official specifically and in writing designated to act in the absence of the incumbent.

§ 159.102-15 Restricted Data.

All data (information) covering (a) design, manufacturing or utilization of atomic weapons; (b) the production of special nuclear material; or (c) the use of special nuclear material in the production of energy, but not to include data declassified or removed from the Restricted Data category pursuant to section 142 of the Atomic Energy Act. (See section 11y, Atomic Energy Act of 1954, as amended, and "Formerly Restricted Data.")

§ 159.102-16 Upgrade.

To determine that certain classified information requires, in the interests of national security, a higher degree of protection against unauthorized disclosure than currently provided, coupled with a changing of the classification designation to reflect such higher degree.

§ 159.102-17 United States and its territories.

The fifty States, the District of Columbia; the Commonwealth of Puerto Rico; the Territories of Guam, American Samoa, and the Virgin Islands; the Trust Territory of the Pacific Islands; the Canal Zone; and the Possessions, Midway and Wake Islands.

POLICIES

§ 159.103 Classification.

(a) *Basic policy.* The introduction to Executive Order 11652 states in part:

> The interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public. This concept of an informed citizenry is reflected in the Freedom of Information Act and in the current public information policies of the executive branch.
>
> Within the Federal Government there is some official information and material which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation and the safety of our people and our allies. To protect against actions hostile to the United States, of both overt and covert nature, it is essential that such official information and material be given only limited dissemination.

Consistent with the foregoing, the use and application of security classification shall be limited to only that information which is truly essential to national security because it provides the United States with: (1) A military or defense advantage over any foreign nation or group of nations, or (2) a favorable foreign relations posture or (3) a defense posture capable of successfully resisting hostile or destructive action from within or without, overt or covert; which could be damaged, minimized or lost by the unauthorized disclosure or use of the information.

(b) *Resolution of doubts.* Unnecessary classification and higher than necessary classification shall be scrupulously avoided. Any substantial doubts as to which of two levels of security classification is appropriate, or as to whether certain information or material should be classified at all, should be resolved in favor of the less restrictive treatment.

(c) *Improper classification.* Classification shall apply only to official information requiring protection in the interests of national security. It may not be used for the purpose of concealing administrative error or inefficiency, to prevent personal or departmental embarrassment, to restrain competition or independent initiative, or to prevent for any other reason the release of official information which does not require protection in the interests of national security.

§ 159.103-1 Regrading and declassification.

In order to preserve the effectiveness and integrity of the Information Security Program, assigned classifications shall be responsive at all times to the current needs of national security. Classification, when determined to be required, shall be retained for the minimum length of time considering the degree of sensitivity, cost and probability of compromise. When classified information is determined in the interests

of national security to require a different level of protection than that presently assigned, or no longer to require any such protection, it shall be regarded or declassified.

§ 159.103–2 Safeguarding.

Official information or material classified under the provisions of this regulation shall be afforded the level of protection against unauthorized disclosure commensurate with the level of classification assigned under the varying conditions which may arise in connection with its use, dissemination, storage, movement or transmission, and destruction.

SECURITY CLASSIFICATION CATEGORIES

§ 159.104 General.

Official information or material which requires protection against unauthorized disclosure in the interests of national security shall be classified in one of three categories, namely, "Top Secret", "Secret", or "Confidential", depending upon the degree of its significance to national security. No other categories shall be used to identify official information or material as requiring protection in the interests of national security, except as otherwise expressly provided by statute.

§ 159.104–1 "Top Secret".

"Top Secret" refers to that national security information or material which requires the highest degree of protection. The test for assigning "Top Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security. This classification shall be used with the utmost restraint.

§ 159.104–2 "Secret".

"Secret" refers to that national security information or material which requires a substantial degree of protection. The test for assigning "Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security. The classification "Secret" shall be sparingly used.

§ 159.104–3 "Confidential".

"Confidential" refers to that national security information or material which requires protection. The test for assigning "Confidential" classification shall be whether its unauthorized disclosure could reasonably be expected to cause damage to the national security.

AUTHORITY TO CLASSIFY, DOWNGRADE AND DECLASSIFY

§ 159.105 Original classification authority.

(a) Original classification authority is authority to make determinations that official information currently requires, in the interests of national security, a specific degree of protection against unauthorized disclosure. This authority shall be restricted solely to those officials specifically designated in writing pursuant to this regulation. It is vested in the incumbent of the designated position and in the individual designated in writing by the incumbent to act in his absence. The exercise of this authority is personal to these officials and may not be delegated by them or used by anyone acting for them or in their names. It is limited to classification only at the level authorized or below. Designations of this authority shall be limited to the minimum number absolutely required for efficient administration, and to those officials whose duties and responsibilities involve the origination and evaluation of information warranting classification at the level stated in the designation. Administrative convenience alone is not a valid base for requesting or granting this authority. A stated need to grant exemptions from the General Declassification Scheduled (§ 159.302) is not by itself a valid basis for designating Top Secret original classification authority.

(b) A determination that a designation is absolutely required shall not be recommended or made until after the officials responsible for the recommendation and for the designation have considered all of the following factors and resolved all of them in favor of the designation.

(1) The normal course of operations or mission of the organization is such as to result in the origination of official information warranting classification.

(2) There is a substantial degree of local autonomy in operations or mission as distinguished from a relatively detailed dependence upon higher level command or supervisory guidance.

(3) There is adequate knowledge by the originating level to make sound classification determinations as distinguished from having to seek such knowledge from a higher level of command or supervision.

(4) There is a valid reason why already designated classification authorities in the originator's channel of command or supervision have not issued or cannot issue classification guidance sufficient to meet the originator's normal needs.

(c) Each request and recommendation for designation of one or more original classification authorities shall meet the following minimum requirements:

(1) Each position involved shall be identified by title and organization.

(2) Each position involved shall be measured against the factors stated in paragraph (b) of this section and shall be the subject of a favorable resolution of those factors.

(3) The request and recommendation shall be addressed, through established channels, to the Secretary of Defense, the Secretary of the appropriate Military Department, the appropriate Top Secret classification authority shown by an asterisk in the listing of Top Secret classification authorities in Appendix A of this regulation (§ 159.1500), or to the appropriate Secret classification authority in the channel of command or supervision of the requester/recommender.

(4) The request and recommendation shall be in writing and personally signed by the commander or supervisor, or his deputy, of the office or organization involved or state explicitly that the request and recommendation is approved by him.

(d) Each designation of an original classification authority shall be in writing and personally signed by the designating official.

(e) Under the provisions of § 159.1301, the Assistant Secretary of Defense (Comptroller), acting in behalf of the Secretary of Defense, is authorized to cancel, or direct the cancellation of, any designation within the Department of Defense which he determines was not made in compliance with this regulation.

(f) Pursuant to section 2 of reference in § 159.100(b), original classification authority may be exercised by the following:

(1) *For Top Secret.* The officials designated in or pursuant to part 1 of Appendix A (§ 159.100).

(2) *For Secret.* The officials designated in or pursuant to parts 1 and 2 of Appendix A (§ 159.100).

(3) *For Confidential.* The officials designated in or pursuant to parts 1, 2 and 3 of Appendix A (§ 159.100).

§ 159.105–1 Record and report requirements.

Records and reports of designations of original classification authority shall be maintained and submitted as follows:

(a) *Top Secret listings.* A current listing by title and organization of officials designated to exercise original Top Secret classification authority shall be kept as follows:

(1) The Office of the Assistant Secretary of Defense (Comptroller) for (i) the Office of the Secretary of Defense; (ii) the Organization of the Joint Chiefs of Staff; (iii) the Headquarters of each Unified and Specified Command and the Headquarters of Subordinate Joint Commands; and (iv) the Defense Agencies.

(2) The Offices of the Secretaries of the Military Departments for the officials of their respective departments, excluding officials from their respective

departments who are serving in Headquarters elements of Unified and Specified Commands and Headquarters of Joint Commands subordinate thereto.

(b) *Secret and Confidential listings.* A current listing by title and organization of officials designated to exercise original Secret and Confidential classification authority shall be kept as follows:

(1) The Office of the Assistant Secretary of Defense (Comptroller), for the Office of the Secretary of Defense.

(2) The offices of the Secretaries of the Military Departments for the officials of their respective departments, excluding officials from their respective departments who are serving in Headquarters elements of Unified and Specified Commands and Headquarters elements of Joint Commands subordinate thereto.

(3) The Director, Joint Staff, for the Organization of the Joint Chiefs of Staff.

(4) The Commanders-in-Chief of the Unified and Specified Commands, for their respective Headquarters and the Headquarters of Subordinate Joint Commands.

(5) The Directors of the Defense Agencies, for their respective Agencies.

(c) The offices which maintain listings of designated original classification authorities as above prescribed shall submit to the Deputy Assistant Secretary of Defense (Security Policy) quarterly consolidated reports of all changes in such listings which have occurred during the reporting quarter. Such reports shall be submitted so as to reach the Office of the Deputy Assistant Secretary of Defense (Security Policy) no later than the 10th working day of the month following the close of the quarter. Reports Control Symbol DD–A (Q) 1183 has been assigned to these reports. Also see § 159.1303.

§ 159.105–2 Currency of designations.

Designations of original classification authorities shall be kept current by written action of the officials authorized to make such designations.

§ 159.105–3 Downgrading and declassification authority.

Original classification authorities or higher officials in the same chain of command or supervisory responsibility are authorized to downgrade or declassify information classified by the original classifier. In addition, to the maximum extent practicable, heads of Department of Defense components shall establish procedures by which officials are designated at headquarters level who are authorized to downgrade and declassify information under the classification jurisdiction of any subordinate offices or echelons and to resolve conflicts or doubts as to the classifications that are appropriate as of a current date.

Subpart—Classification

Classification Responsibilities

§ 159.200 Accountability of classifiers.

Each classifier shall be held accountable for the propriety of the classifications assigned by him, whether in the exercise of original classification authority or in the determination and application of classifications assigned in source documents or as prescribed by applicable classification guidance, and shall maintain adequate records to support his actions. Such records could take the form of an approved security classification guide or a notation on the record copy of the classified document indicating the source of the classification or, if an original classification, a brief justification for the classification determination. In any case, the classifier is required to maintain a record to show the basis for classification or by which the chain of classification authority can be traced to an original classification authority who can justify the initial classification determination, should an occasion demand such action. (See also § 159.302.) An official with the requisite classification authority who classifies a document or other material and who identifies himself thereon as the classifier, is and continues to be, the accountable classifier even though the document or material is finally approved or signed at a higher level in the same organization.

§ 159.200–1 Classification review.

(a) When an official signs or finally approves a document or other material already marked to reflect a particular level of classification, he shall review the information contained therein to determine if the classification marking(s) is (are) appropriate. If, in his judgment, the classification marking(s) is (are) not supportable, he shall cause such marking(s) to be removed or changed as appropriate to reflect accurately the classification of the information involved prior to issuance.

(b) A higher level official through or to whom a document or other material passes for signature or final approval becomes jointly responsible with the accountable classifier for the classification(s) assigned. In any particular organization a determination as to whether the higher level official wishes to have his subordinates who have requisite classification authority to be shown as the accountable classifier is a matter for internal management to decide.

§ 159.200–2 Classification planning.

(a) Advance classification planning is an essential part of the development of any plan, operation, program, research and development project, or procurement action in which security is a major factor, or which involves classified information. The classification aspects must be considered from the beginning to assure adequate protection for the information and for the activity itself, and to eliminate impediments to the execution or implementation of the plan, operations order, program, project, or procurement action.

(b) The commander or official charged with the development of any plan, program or project, in which classification is a factor, shall include therein, under a clearly identifiable title or heading, a classification guide covering the information involved in that effort or a classification plan, prepared by qualified personnel who have at hand the necessary knowledge and technical intelligence to make reasonable determinations covering the following:

(1) Isolation and identification of items of information involved in the effort which require classification.

(2) Classification guidance specifying the levels of classification to be applied to identified items of information and material developed in connection with the plan, program or project.

(3) A schedule for phased downgrading and declassification covering each item of classified information and material. If the information is of a nature which is exempted from the General Declassification Schedule (see § 159.302–1), a statement shall be included indicating which of the four exemption categories is applicable and, unless impossible, a date or event on which declassification will occur.

(4) Provision for periodic review to determine the currency and accuracy of the classification, downgrading, and declassification guidance provided.

§ 159.200–3 Recipient of classified information or material.

If the recipient of classified information or material has reason to believe that it should not be classified or that current security considerations justify a change in the assigned classification, he shall make such changes if he is authorized to do so. If not so authorized, he shall promptly submit the matter to the appropriate classifier with his recommendations and reasons therefor. Pending final determination, the material shall be safeguarded as required for its assigned or proposed classification, whichever is higher, until the classification is changed or otherwise verified. The responsible classifying authority shall act on such recommendations within thirty (30) days of receipt.

Identification of Classifier

§ 159.201 Identification of classifier.

(a) Information or material classified under this regulation shall indicate on its face, in the case of documents, or by notice or other means, in the case of material, the identity of the classifier. Such identification shall be shown on the "Classified by" line of the notations authorized under § 159.403–1. Clear and complete identification is construed to mean that the description standing alone shall be sufficient to identify a particular official, source document or classification guide, as the case may be. Identification of a source document or guide will include the date thereof and the title and organization of the original classifier when known.

(1) If all of the information in the document or other material is classified as an act of original classification, the official with requisite classification authority who made the classification determination shall be identified on the face of the document in the "Classified

by" space by his title and position in his organization.

(2) If all of the classified information contained in a document is classified because of classification imposed by a single outside source, for example, a source document or classification guide, and no original classification is involved, the "Classified by" line will identify the source document or guide including its date, and also the official title and organization of the original classifier when known.

(3) If the classified information contained in a document or other material is classified because of classifications imposed by more than one outside source document, classification guide or combination thereof, the official title and position of the signer or final approver of the new document or other material shall be shown in the "Classified by" space.

(4) If a particular official with requisite classification authority has been designated by the head of an organization to be the approver of the security classification assigned to all classified material leaving the organization, the official title and position of that designated official shall be shown in the "Classified by" space.

(b) In all of the situations in paragraph (a) (1) through (4) of this section, the official responsible for completing the "Classified by" line in the stamp shall establish and retain adequate records to support his action.

(c) Guidance concerning the identification of classifier on electrically transmitted messages is contained in § 159.401–7.

CLASSIFICATION PRINCIPLES, CRITERIA AND CONSIDERATIONS

§ 159.202 Balanced judgment requirement.

Classification is a balanced judgment. There must be a positive basis for classification, but both advantages and disadvantages to classifying must be considered. Determination to classify shall not be made and a classification marking shall not be applied until after full consideration of both aspects. All sections of this subpart (§§ 159.202–159.202–15) must be considered before a classification determination is made or a classification marking is applied.

§ 159.202–1 Identification of specific information.

Classification determinations must be preceded by an exact identification of each item of information which may require security protection in the interests of national security. This process involves identification of that specific information which comprises the basis for the particular national advantage or advantages which, if the information were compromised, would or could be damaged, minimized, or lost, thereby adversely affecting the national security.

§ 159.202–2 Reasons for classification.

An evaluation of information forms the base for classification. A document or other material is classified either: (a) Because of the information it contains which may be ascertained by study, analysis, observation or use of it; or (b) because of the information it may reveal when associated with other information, including that which the classifier knows already has been officially released into the public domain.

§ 159.202–3 Specific classifying criteria.

A determination to classify shall be made only when one or more of the following considerations are present and the unauthorized disclosure of the information could reasonably be expected to cause a degree of harm to the national security:

(a) The information provides the United States, in comparison with other nations, with a scientific, engineering, technical, operational, intelligence, strategic or tactical advantage directly related to the national security.

(b) Disclosure of the information would weaken the position of the United States in the discussion, avoidance or peaceful resolution of potential or existing international differences which could otherwise generate a military threat to the United States or its mutual security arrangements, create or increase international tensions contrary to the national security of the United States, result in a disruption in foreign relations, or lead to hostile political or military action against the United States or its allies, thereby adversely affecting the national security.

(c) Disclosure of the information would weaken the ability of the United States to wage war or defend itself successfully, limit the effectiveness of the armed forces, or make the United States vulnerable to attack.

(d) There is sound reason to believe that other nations do not know that the United States has, or is capable of obtaining, certain information or material which is important to the national security of the United States vis-a-vis those nations.

(e) There is sound reason to believe that knowledge of the information would: (1) Provide a foreign nation with an insight into the war potential or the war or defense plans or posture of the United States; (2) allow a foreign nation to develop, improve or refine a similar item of war potential; (3) provide a foreign nation with a base upon which to develop effective countermeasures; (4) weaken or nullify the effectiveness of a defense or military plan, operation, project or activity which is vital to the national security.

§ 159.202–4 Dissemination considerations.

The degree of intended or anticipated dissemination and use of material, and whether the end purpose to be served renders effective security control impractical, are factors which must be considered. These factors do not necessarily preclude classification, but they do force consideration of the extent to which classification under such circumstances may degrade the classification system by attempting to impose security control in impractical situations. Determinations significantly dependent upon these factors shall not be made below the level of the official having original classification authority over the particular plan, program, project or item.

§ 159.202–5 Net national advantage.

In exceptional circumstances involving scientific and technical information or material, it may be necessary to weigh the benefits which would accrue to the United States generally from the unclassified use by other United States government agencies or commercial interests of information which is classified or otherwise classifiable under this regulation, against the advantage which would be gained or retained by classificaton or continued classification of the information. When a net advantage to the United States resulting from unclassified use distinctly can be ascertained beyond a reasonable doubt, that factor should be considered in reaching the classification determination which is to be made by a designated classification authority having classification jurisdiction over the information involved.

§ 159.202–6 Lead time advantage.

Unlike § 159.202–5, this paragraph concerns situations in which obtaining or maintaining a national defense lead time advantage is essential.

(a) Lead time is the interval between the acquisition of knowledge by or on behalf of the Government of the United States and the time when the Government of the United States believes that the same knowledge is known to, or reasonably could be known to, the private community in the United States or to other nations through the application of their own resources.

(b) The United States as a nation may have a sufficient edge on a sufficiently broad basis of technical competence over other nations that an essential national defense lead time advantage might be obtained or maintained through an open race with other nations.

(c) If it is reasonably believed that an essential national defense lead time advantage can be obtained or maintained as well or better through reliance upon the total available U.S. technological base, open circulation, after public release approval, will be preferred to security classification.

(d) If it is reasonably believed that an essential national defense lead time advantage which could be obtained or maintained through security classification more than likely would be lost through open circulation after public release approval, the determination will be to use security classification.

§ 159.202–7 Cost factor.

Cost alone is not a positive basis for classification. Cost may be a reason for not classifying under certain conditions as shown below.

(a) If cost resulting from classification in terms of time, money or personnel becomes a critical factor and actually might impede or prevent attainment of the desired mission or objective of the program, project or operation, it will be necessary to consider:

(1) Value to national defense of accomplishing the desired mission or objective.

(2) Risk attendant upon non-classification of certain information in order to attain the desired goal.

(3) Maximum extent to which classification can be employed without actually impeding attainment of the goal.

(b) Whenever officials responsible for carrying out a program, project or operation consider that the cost factor resulting from classification may impede or prevent attainment of the desired mission or objective, the matter shall be referred, with appropriate explanations and recommendations, to the original classifying authority for the program, project or operation.

(c) Final determination of the effect of the cost factor on classification under circumstances set forth in paragraph (b) of this section, shall be made only at or above the level of the original classifying authority for the program, project or operation.

§ 159.202–8 Classifying research data.

Ordinarily, except for information which meets the definition of Restricted Data, basic scientific research or results thereof shall not be classified. However, classification would be appropriate if the information concerns an unusually significant scientific "breakthrough" and there is sound reason to believe it is not known or within the state-of-the-art of other nations, and it supplies the United States with the advantage directly related to national security.

§ 159.202–9 Classifying documents.

Each document shall be classified on the basis of the information it contains or reveals. The fact that a document makes reference to a classified document is not a basis for classification unless the reference, standing alone, reveals classified information. The overall classification of a document, file, or group of physically connected documents shall be at least as high as that of the most highly classified component. Each component, however, shall be classified individually on its own merits. The subject or title of a classified document should normally be unclassified for ready reference. When the information revealed by a subject or title warrants classification protection, an unclassified short title should be added for reference purposes.

§ 159.202–10 Classifying material other than documents.

(a) Items of equipment or other physical objects may be classified only when classified information may be derived from them by visual observation of internal or external appearance, structure, operation, test, application or use. The overall classification assigned to equipment or physical objects shall be at least as high as the highest classification of any of the items of information revealed by the equipment or objects.

(b) In every instance when classification of an item of equipment or other physical object is determined to be warranted, such determination must be based on a finding that there is at least one aspect of the item or object which affords the United States a national defense advantage. If mere knowledge of the existence of the item of equipment or physical object would compromise or nullify its national defense advantage, its existence would warrant classification.

§ 159.202–11 State-of-the-art and intelligence.

Classification requires consideration of the information available from intelligence sources concerning the extent to which the same or similar information is known or is available to others. It is also important to consider whether it is known, publicly or internationally, that the United States has the information or even is interested in the subject matter. The state-of-the-art in other nations is a vital factor requiring consideration.

§ 159.202–12 Effect of open publication.

Appearance in public domain of information currently classified or being considered for classification does not preclude initial or continued classification; however, such disclosures require immediate re-evaluation of the information to determine whether the publication has so compromised the information that downgrading or declassification is warranted. Similar consideration must be given to related items of information in all programs, projects or items incorporating or pertaining to the compromised items of information. In these cases, if the release is shown to have been made or authorized by an official Government source, classification of clearly identified items shall no longer be continued. However, holders should continue classification until advised to the contrary by a competent Government authority. Under no circumstances may a compilation of official public releases be classified.

§ 159.202–13 Re-evaluation of classification because of compromise.

Specific classified information subjected to compromise or possible compromise and information related thereto shall be re-evaluated and acted upon as follows:

(a) The original classifying authority, upon learning that a compromise or possible compromise of specific classified information has occurred, shall:

(1) Re-evaluate the information involved and determined whether: (i) The classification should be continued without changing the specific information involved; (ii) the specific information, or parts thereof, should be modified to minimize or nullify the effects of the reported compromise and the classification retained; (iii) immediate downgrading is appropriate; (iv) the original schedule specified for downgrading the information involved should be changed to reflect an earlier downgrading time; or (v) declassification is warranted.

(2) When such determination is within paragraph (a)(1) (ii), (iii), (iv), or (v) of this section give prompt notice thereof to all holders of such information.

(b) Upon learning that a compromise or possible compromise of specific classified information has occurred, any official having original classification jurisdiction over related information shall reevaluate the related information and determine whether one of the courses of action enumerated in paragraph (a)(1) of this section should be taken or, in lieu thereof, upgrading of the related information is warranted. When such a determination is within paragraph (a)(1) (ii), (iii), (iv), or (v) of this section or that upgrading of the related items is warranted, prompt notice of the determination shall be given to all holders of the related information. (See Subpart—Compromise of Classified Information.)

§ 159.202–14 Compilation of information.

The general rule is that a compilation of unclassified items shall not be classified. In rare and unusual circumstances, however, classification may be required if the combination of unclassified items together provides an added factor which warrants classification. Classification on this basis shall be used sparingly. (See also §§ 159.202–12 and 159.401–3.)

§ 159.202–15 Extracts of information.

Information or material extracted from a classified source will be classified, or not classified, as the case may be, in accordance with the classification markings shown in the source. The overall marking and internal marking of the source should supply adequate classification guidance to the person making the extraction. However, if internal markings, as an exception to the general rule, are lacking, and if no classification guidance is included in the source and no reference is made to an applicable classification guide which is available for use by the person making the extraction, the extracted information or material will be classified to correspond to the overall marking of the source, or in accordance with guidance specifically sought and received from the classifier of the source material.

Classification Guides

§ 159.203 General.

A classification guide, based upon classification determinations made by appropriate classification authorities, shall be issued for each system, program or project. Successive operating echelons shall prescribe any further detailed supplemental guides deemed essential to assure accurate, uniform and consistent classification.

§ 159.203–1 Multiservice interest.

For each system, program, project or item involving or being used by more

than one component of the Department of Defense, (a) the component in the Office of the Secretary of Defense which assumes or is expressly designated to exercise overall cognizance or (b) the Department of Defense component which is expressly designated to serve as the executive or administrative agent for development and administration of the particular effort shall be responsible for assuring the issuance of an appropriate classification guide for the particular system, program, project or item.

§ 159.203–2 Other multiservice interest cases.

The Assistant Secretary of Defense (Comptroller) shall develop, in coordination with the designated senior official (§ 159.1302–1, § 159.1302–2) of each interested Department of Defense component, and issue appropriate classification guides covering:

(a) General subject matters which will be involved in individual systems or equipments and for which it is deemed essential to establish proper bases for uniform, consistent classification assignments.

(b) Any system, program, project or item of multiservice interest not covered in § 159.203–1.

§ 159.203–3 Research, development, test and evaluation programs.

Each system and equipment development program which involves Research, Development, Test and Evaluation (RDT &E) of technical information shall be supported by a program security classification guide which is both meaningful and timely. For all active programs of this kind, the following rules apply:

(a) For each such program covered by an approved Development Concept Paper (DCP) or Program Memorandum (PM), initial basic security classification guidance shall be developed and submitted with the proposed DCP or PM to the Director, Defense Research and Engineering, for approval of the proposed security classifications applicable to technical characteristics of the system or equipment. A detailed security classification guide shall be developed and issued in accordance with the policies and procedures established by this regulation as nearly contemporaneously as practicable with the granting of approval of the DCP or PM.

(b) A recommended master security classification guide for each such program falling below the DCP or PM threshold shall be approved at the level of the Assistant Secretary (R&D) of the Military Departments, the Assistant to the Chairman, Joint Chiefs of Staff, or the Deputy Directors of the Defense Agencies, or their respective designees.

§ 159.203–4 Project phases.

Whenever feasible, classification guides shall cover, phase by phase, the transition from research through development, test and evaluation, procurement, production, service use and obsolescence, with changes made in assigned classifications which are appropriate to changing sensitivity of the information involved. Classifications shall be specific as to the system or item concerned.

§ 159.203–5 Review of classification guides.

Classification guides, including Contract Security Classification Specifications (DD Form 254), shall be reviewed by the originator for currency and accuracy not less than once each year. Changes shall be in strict conformance with the provisions of this regulation and shall be issued promptly to all holders. In this connection, information and material previously identified in a pre-June 1972 classification guide as Group 1, 2 or 3 under Executive Order 10501 shall be reevaluated and shall be included in any new or revised post-June 1972 classification guide as ADS, GDS or exempt from GDS under the provisions of Subpart—downgrading and declassification of this regulation. In no case shall information or material be designated as "Excluded" from the GDS in a new or revised classification guide which is developed pursuant to the provisions of this paragraph. All classification guides which prescribe exemptions from the General Declassification Schedule shall identify the title or position of the Top Secret classification authority who approved, authorized or sanctioned such exemptions pursuant to the provisions of § 159.302. If no changes are made, the originator shall place on the record copy of the guide a notation, signed by an appropriate official, attesting to the fact of the review and the date thereof.

§ 159.203–6 Sufficiency of classification guides.

Classification guides must be sufficiently detailed to identify the critical items of information which require classification and yet sufficiently flexible to assure accurate classification of documentation and other material developed at various levels and during different stages of the program or project. It is particularly important that such guides not result in stagnation and overclassification through automatic application of their content.

§ 159.203–7 Distribution of guides to Office, Secretary of Defense.

Except as determined by the Secretary of Defense for certain categories of information, a copy of each classification guide and changes thereto shall be sent to the Directorate for Security Review, Office, Assistant Secretary of Defense (Public Affairs) and to the Director of Information Security, Office, Deputy Assistant Secretary of Defense (Security Policy), Office, Assistant Secretary of Defense (Comptroller).

RESOLUTION OF CONFLICTS

§ 159.204 General.

When two or more offices, headquarters or activities disagree concerning a classification, declassification, or regrading action, the disagreement must be resolved promptly. Normally, mutual consideration by the offices, headquarters or activities concerned of the arguments for and against classification will provide adequate basis for reaching agreement.

§ 159.204–1 Procedures.

If agreement cannot be reached at the operating level, the matter shall be referred for decision to the lowest superior common to the disagreeing parties. If agreement cannot be reached at the major command (or equivalent) level, the matter shall be referred for decision to the headquarters office having overall classification management responsibilities for the component. To avoid undue delay, that office shall also be advised, on an information basis, of any disagreement at any echelon if it appears that prompt resolution is not likely. This will permit the headquarters to consider direct action to hasten resolution.

§ 159.204–2 Final decision.

Disagreements between Department of Defense component headquarters, if not resolved promptly, shall be referred to the Deputy Assistant Secretary of Defense (Security Policy) (DASD(SP)) for resolution. If appropriate, DASD(SP) may refer the question to the DoD Information Security Advisory Board (§ 159.1301–2) for action.

§ 159.204–3 Timing.

Action at each level of consideration on any disagreement on a classification, declassification or regrading problem shall be completed as soon as possible but within thirty (30) days. Failure to reach decision within thirty (30) days shall be cause for referral to the next higher echelon.

OBTAINING CLASSIFICATION EVALUATIONS

§ 159.205 Tentative classification.

If a person not authorized to classify originates or develops information which he believes should be safeguarded he shall:

(a) Safeguard the information in the manner prescribed for the intended classification.

(b) Mark the information (or cover sheet) with a tentative classification (e.g., "TENTATIVE CONFIDENTIAL").

(c) Forward the material to an appropriate classifying authority for evaluation and decision. If such authority is not readily identifiable, the material should be forwarded to a headquarters activity of a Department of Defense component, to the headquarters office having overall classification management responsibilities for a Department of Defense component or to the Deputy Assistant Secretary of Defense (Security Policy) (DASD(SP)).

(d) In an emergency requiring immediate communication of the information, after taking the action prescribed by paragraphs (a) and (b) of this section, transmit the information and then proceed in accordance with paragraph (c) of this section.

Upon decision by the classifying authority, the tentative marking shall be removed. If a classification has been assigned, appropriate markings shall be applied as prescribed by this regulation.

PRIVATE INFORMATION

§ 159.206 General.

Although only official information may be classified, there are some circumstances in which information not meeting the definition in § 159.102–13 may warrant protection in the interest of national security.

§ 159.206–1 Patent Secrecy Act.

The Patent Secrecy Act of 1952 (35 U.S.C. 181–188) provides that the Secretary of Defense, among others, may determine that disclosure of an invention by granting of a patent would be detrimental to national security. DoD Directive 5535.2, (§ 159.100(y)), delegates to the Secretaries of the Army, Navy, and Air Force the authority to make such determinations on behalf of the Secretary of Defense. When such determination is made, the Commissioner of Patents on request of the DoD representative takes specified actions concerning grant of a patent and protection of the information. A patent application on which a secrecy order has been imposed shall be handled as follows within the Department of Defense:

(a) If the patent application contains official information which warrants classification, it shall be assigned a classification and be marked and safeguarded accordingly. In addition, a cover sheet with wording as in § 159.206–1(b), shall be attached.

(b) If the patent application does not contain official information which warrants classification, the following procedures shall be followed:

(1) A cover sheet (or cover letter for transmittal) shall be placed on the application with substantially the following language:

> The attached material contains information on which secrecy orders have been issued by the United States Patent Office after determination that disclosure would be detrimental to national security (Patent Secrecy Act of 1952, 35 U.S.C. 181–188). Its transmission or revelation in any manner to an unauthorized person is prohibited by law. Handle as though classified: *Confidential* (or such other classification as would have been assigned had the patent application been official information).

(2) The information shall be withheld from pubic release; its dissemination within the Department of Defense shall be controlled; the applicant shall be instructed not to disclose it to any unauthorized person; and the patent application (or other document incorporating the protected information) shall be safeguarded in the manner prescribed for equivalent classified material.

(c) If filing of a patent application with a foreign government is approved under provisions of the Act of 1952 and agreements on interchange of patent information for defense purposes, the copies of the patent application prepared for foreign registration (but only those copies) shall be marked at the bottom of each page as follows:

> Withheld under the Patent Secrecy Act of 1952 (35 U.S.C. 181–188). Handle as: *Confidential* (or such other level as has been determined).

§ 159.206–2 Independent research and development.

(a) The product of independent research and development shall not be classified unless the product incorporates classified information to which the person or the company was given prior access.

(b) Independent research and development may be government sponsored, or may be a purely private, unsponsored effort. Government sponsored independent research and development may be done by a person who or company which previously was given access to classified information. If no prior access was given, classification is not permissible unless the government first acquires a proprietary interest.

(c) In cases in which no prior access was given but the person or company conducting the independent research or development believes that protection may be warranted in the interest of national security, he should safeguard the information in accordance with § 159.205 and submit it to an appropriate Department of Defense element for evaluation. The Department of Defense element receiving such a request for evaluation shall make or obtain a determination whether a classification would be assigned if the information were official. If the determination is negative, the originator shall be advised that the information is unclassified. If the determination is affirmative, the Department of Defense element shall make or obtain a determination whether an official proprietary interest in the research and development will be acquired. If such an interest is acquired, the information shall be assigned proper classification. If no such interest is acquired, the originator shall be informed that there is no basis for classification and the tentative classification shall be cancelled.

§ 159.206–3 Other private information.

In any other instance, for example, an unsolicited bid, in which a firm, organization, or individual submits to the government private information for determination of classification, the steps specified in § 159.205 shall be taken.

UPGRADING

§ 159.207 Raising to a higher level of classification.

Upgrading classified information to a higher level than previously determined is permitted only when it is determined by the upgrading authority that:

(a) All holders of the information are authorized access to the higher classification category;

(b) All holders of the information can be promptly notified of the upgrading; and

(c) Any dissemination to holders not authorized access to the higher classification category can be neutralized through retrieval.

§ 159.207–1 Classification of information previously determined to be unclassified.

Unclassified information, once communicated as such, is permitted to be classified only when the classifying authority makes the same determination described for upgrading in § 159.207 and in addition, determines that control of the information has not been lost by such communication and can still be prevented from being lost.

§ 159.207–2 Information released to secondary distribution centers.

No attempt shall be made to classify information previously determined to be unclassified which is contained in documents released to secondary distribution centers, such as the Defense Documentation Center, unless it is determined that no secondary distribution has been made and can still be prevented. The provisions of § 159.207–1 apply to this kind of material.

§ 159.207–3 Notification.

Notification of upgrading or the classification of information previously determined to be unclassified shall not be given to holders from whom retrieval is accomplished.

INDUSTRIAL OPERATIONS

§ 159.208 Classification in industrial operations.

Classification in industrial operations shall be based strictly on security classification guidance furnished by the Government. Industrial management does not make original classification determinations but applies the classification decisions of the contracting authority with respect to information and material developed, produced or handled by the contracting facility itself. Industrial management shall designate persons who shall have the responsibility for assuring that Government security classification guidance is applied accurately and uniformly. Numbers of persons authorized to determine the proper classifications to be applied in accordance with the government guidance shall be limited to the minimum consistent with operational requirements.

Subpart—Downgrading and Declassification

GENERAL PROVISIONS

§ 159.300 Downgrading and declassification determinations.

When a classification determination is made, it is necessary to determine how long the classification shall last in accordance with the policy expressed in § 159.103–1. Classified information and material shall be downgraded and declassified as soon as there are no longer any grounds for continued classification within the classification category definitions set forth in §§ 159.104—159.104–3

and the classification principles, criteria and considerations set forth in Subpart-Classification (§§ 159.200—159.200–3).

§ 159.300–1 Priority consideration of earliest possible date or event.

The individual exercising original classifying authority shall, to the maximum extent practicable, predetermine at the time of origination dates or events on which downgrading and declassification shall occur. These dates or events shall be as early as the national security will permit. The dates of the General Declassification Schedule as set forth in § 159.301 shall not be used unless an Advanced Declassification Schedule for date or event earlier than the General Declassification Schedule cannot be predetermined.

§ 159.300–2 Dates or events carried forward.

Downgrading and declassification dates or events predetermined at time of origination under § 159.300–1, § 159.301 or § 159.302 shall be carried forward and applied when the classified information to which they are assigned is incorporated in later documents, security classification guides or material. In order to ensure uniformity in the application of this policy guidance, the following examples are cited:

(a) A 1973 security classification guide identifies items of information which are classified at the Confidential level and assigned to the General Declassification Schedule with a declassification date of December 31, 1979. When the guide is re-issued in 1974 and the same items of information are incorporated without change of classification status, the declassification date of December 31, 1979 is shown for these items in the reissuance.

(b) A document created in January 1974 is classified solely on the basis that the information used therein is the same as that contained in a January 1973 source document classified at the Confidential level. The source document is marked as prescribed for the Advanced Declassification Schedule (ADS) with the declassification date shown as December 31, 1975. The document created in January 1974 would carry the same declassification date as the source document—December 31, 1975.

GENERAL DECLASSIFICATION SCHEDULE

§ 159.301 Automatic downgrading and declassification.

Classified information and material, unless downgraded or declassified earlier under the provisions of § 159.300–1 or exempted from the General Declassification Schedule under §§ 159.302 and 159.302–1, shall be assigned a date or event on which downgrading and declassification shall occur in accordance with the prescribed limits of the General Declassification Schedule outlined below:

(a) *Top Secret.* Information or material originally classified Top Secret shall be automatically downgraded to Secret at the end of the second full calendar year following the year in which it was originated, downgraded to Confidential at the end of the fourth full calendar year following the year in which it was originated and declassified at the end of the tenth full calendar year following the year in which it was originated. For example, a document classified Top Secret on 1 June 1972 will automatically be downgraded to Secret on 31 December 1974, downgraded to Confidential on 31 December 1976 and declassified on 31 December 1982.

(b) *Secret.* Information and material originally classified Secret shall be automatically downgraded to Confidential at the end of the second full calendar year following the year in which it was originated and declassified at the end of the eighth full calendar year following the year in which it was originated.

(c) *Confidential.* Information and material originally classified Confidential shall be automatically declassified at the end of the sixth full calendar year following the year in which it was originated.

§ 159.301–1 Retroactive application.

Information or material classified before June 1, 1972 shall be treated as follows:

(a) When marked as Group 4 under Executive Order 10501, as amended, it shall be subject to the General Declassification Schedule (§ 159.301) effective December 31, 1972. The starting date for the General Declassification Schedule will be the date of origin of the information or material. The fact that Group 4 information or material is being declassified earlier than originally scheduled dates shall not prevent it being redesignated as falling within an exemption category as provided for in §§ 159.302 and 159.302–1. Exemption of Group 4 material may be made only if action is taken in time for notification thereof to be received by all holders of the document prior to the date established under the General Declassification Schedule for automatic declassification

(b) Information or material marked as Group 1, 2 or 3 under Executive Order 10501, as amended, or other information or material not group-marked under Executive Order 10501, shall, except as provided in § 159.401–1(c) be excluded from (not "exempted" from) the General Declassification Schedule. With respect solely to information or material marked Group 3 and which is under the exclusive or final classification jurisdiction of the Department of Defense, it shall continue to be downgraded automatically at twelve year intervals from date of origin until the classification level of Confidential is reached but not automatically declassified.

(c) Information or material described in paragraph (b) of this section shall be subject to the same conditions and criteria that apply to classified information and material created on or after June 1, 1972 as set forth in §§ 159.303 through 159.304–3.

§ 159.301–2 Redesignating material as exempted.

If an original classifier at any time determines that information or material falls within one of the four exempt categories described in §§ 159.302 and 159.302–1, the fact that such information or material was previously placed under the General Declassification Schedule § 159.301, or marked for earlier declassification (§§ 159.300–1 and 159.301–1), shall not prevent it being redesignated as falling within an exempt category. This determination shall be based on a finding either that the original downgrading and declassification determination was in error, or that the material or information, due to a change in circumstances, falls within one of the four exempt categories. Upon such redesignation, notice shall be promptly given to all holders of such information. Such redesignation may be made only when all recipients of the information can be notified prior to the scheduled date for declassification. Redesignation shall preserve the level of classification in effect at the time of redesignation, subject, however to §§ 159.300 and 159.303 through 159.304–3.

EXEMPTIONS FROM GENERAL DECLASSIFICATION SCHEDULE

§ 159.302 General provisions.

Certain classified information or material may warrant some degree of protection against unauthorized disclosure for a period exceeding that provided in the General Declassification Schedule in §§ 159.301 through 159.301–2. An official authorized to exercise original Top Secret classification authority may exempt from the General Declassification Schedule any level of classified information or material originated by him or under his supervision if it falls within one of the categories described below. In each case, the original Top Secret classification authority shall specify in writing on the material or by means of written policy direction issued in advance, the exemption category being claimed and, unless impossible, shall specify a date or event for automatic declassification of the information involved. The head of each component shall establish procedures to assure that original Top Secret classification authorities limit the use of this exemption authority to the absolute minimum consistent with national security requirements. When a document or other material is being prepared and an exemption determination is based upon a classification guide or on a source document, the classifier's (see § 159.201) retained records shall be maintained in such manner as to enable the identification of the source(s) of the exemption(s) used. (See also §§ 159.200 and 159.304—2)

§ 159.302–1 Exemption categories.

Exemptions from the General Declassification Schedule are strictly limited to information or material in the following categories (numbered according to section 5(B), Executive Order 11652):

(a) Furnished by foreign governments or international organizations and held by the United States on the understanding that it be kept in confidence.

(b) Specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods.

(c) Disclosing a system, plan, installation, project or specific foreign relations matter the continuing protection of which is essential to the national security. (See § 159.304–2)

(d) Disclosure would place a person in immediate jeopardy.

MANDATORY REVIEW OF MATERIAL OVER 10 YEARS OLD

§ 159.303 Material covered.

All classified information and material originated on or after June 1, 1972 which is exempted under §§ 159.302 and 159.302–1 from the General Declassification Schedule, and all classified information and material which is "excluded" from the General Declassification Schedule under § 159.301–1(b), shall upon request, be subject to mandatory classification review by the originating DoD components at any time after the expiration of ten years from date of origin.

§ 159.303–1 Processing requirements.

Requests for review of the classification of information or material exempted from the General Declassification Schedule §§ 159.302 and 159.302–1 shall be processed promptly, subject to the following:

(a) A U.S. Government Department or Agency or a member of the public has requested revew.

(b) The request is in writing and describes the record with sufficient particularity to enable the component to identify it. Whenever a request is deficient in the description of the record sought, the requester should be asked to provide additional identifying information.

(c) The record can be obtained with only a reasonable amount of effort. What is "reasonable" depends on the amount of records sought, their location, and accessibility, and the time, effort and related costs required to identify and compile them. Before denying a request on the grounds that it is unduly burdensome, the requester should be asked to limit his request to records that are reasonably obtainable.

(d) If, after taking the alternative action prescribed by paragraph (b) or (c) of this section, the request does not describe the records sought with sufficient particularity, or the record cannot be obtained with a reasonable amount of effort, the requester shall be notified of the reasons why his request cannot be granted.

§ 159.303–2 Submission of requests for review.

Requests described in § 159.303 shall be submitted in accordance with the following:

(a) Requests originating within DoD shall in all cases be submitted directly to the DoD element which originated the material. Such cases are not referred to the Departmental Classification Review Committee (§§ 159.1301–1 and 159.1302–1).

(b) For most expeditious action, requests from other agencies of the Executive Branch or from outside the Executive Branch should be submitted directly to the DoD element which originated the material. If the originating element is not known or cannot be located, the requester may submit the request to any of the following:

(1) The facilities established in the Office, Secretary of Defense, the Military Departments and the Defense Agencies under DoD Directive 5400.7 (§ 159.100 (r)), to receive requests for records under the Freedom of Information Act. These facilities are identified in appropriate sections of 32 CFR for each DoD component.

(2) The head of the DoD component which is most concerned with the subject matter of the material requested.

(3) Chief, Records Management Branch, Office, Deputy Assistant Secretary of Defense (Administration) (Comptroller), Department of Defense, Washington, D.C. 20301.

§ 159.303–3 Action on requests for review.

The office which first acts upon a request for review for declassification shall immediately acknowledge to the requester receipt of such request in writing and must simultaneously advise the requester that, if at the end of 30 days from receipt of the request no determination has been made, he may apply to the departmental committee for a determination. If, during the 30 day processing time, a determination can be made that additional time will be required to process the request, the requester shall be advised of the reasons.

(a) If at the end of 60 days from receipt of the request for review no determination has been made, the requester shall be advised of his right of appeal to the DoD Classification Review Committee (§ 159.1301–1).

(b) Information or material which no longer qualifies for exemption under §§ 159.302 and 159.302–1 shall be declassified and processed for release to the requester in accordance with DoD Directive 5230.9 (§ 159.100(d)).

(c) Information or material continuing to qualify for an exemption under § 159.302–1 shall be marked in accordance with Subpart—Marking and unless impossible, a date for automatic declassification shall be set. The requester shall be so notified and, whenever possible, he shall be provided with a brief statement as to why the requested information or material cannot be declassified. This notice shall also advise him of his right to appeal to the DoD Classification Review Committee (§ 159.1301–1).

(d) Fair and equitable fees for copies of available records shall be established pursuant to DoD Instruction 7230.7, (§ 159.100(s)).

§ 159.303–4 Burden of proof.

In considering appeals from denials of declassification requests, the DoD and Military Department Classification Review Committees shall place the burden of proof, for administrative purposes, on the originating DoD component to show that continued classification is warranted.

FIFTEEN AND THIRTY YEAR DECLASSIFICATION REQUIREMENTS

§ 159.304 Material covered.

All classified information or material which is excluded or exempted from the General Declassification Schedule under §§ 159.301 through 159.302–1 and over which the Department of Defense exercises final classification authority is subject to declassification under the conditions stated below.

§ 159.304–1 Systematic review.

All information and material in the custody of the National Archives and Records Service which was classified before the effective date of this regulation and more than thirty years old is to be systematically reviewed for declassification by the Archivist of the United States. The Archivist shall refer to the Department of Defense such material as has been indicated by the Department of Defense to require further review. In the case of thirty year old information in the custody of the components of the Department of Defense, such review will be accomplished by the custodians of the respective components. The Department of Defense component having primary jurisdiction over the material received from the Archivist or in its custody, shall proceed as follows:

(a) Classified information or material over which the Department of Defense exercises exclusive or final original classification authority and which is to be kept protected in accordance with § 159.304–2 shall be listed by the responsible custodian and referred through established channels to the Secretary of Defense or the Secretary of the appropriate Military Department depending upon which of these officials has current security classification jurisdiction over it. This listing shall:

(1) Identify the information or material involved, including its date of origin and field of interest;

(2) Recommend continued classification beyond thirty years to a specific future event which is certain to happen, or for a fixed period of time to terminate on December 31 of a given future year; and

(3) State that the reason for the recommended continued classification is that earlier disclosure would place an identified or identifiable person in immediate jeopardy, or that, because of reasons which are stated, continued classification is essential to the national security.

(b) The Secretary of Defense or the Secretary of the Military Department concerned shall personally consider and determine which category of material shall be kept classified and the period of continued classification. The Archivist shall be so notified.

(c) All documents or other materials determined, under the provisions of this §§ 159.304 through 159.304–2, to be declassified shall be remarked according to the provisions of Subpart—Marking of this regulation.

§ 159.304–2 Exceptions to automatic declassification.

All information and material classified after the effective date of this regulation over which the Department of Defense exercises exclusive or final original classification authority, if exempt from the General Declassification Schedule under §§ 159.302 and 159.302–1 of this subpart becomes automatically declassified in accordance with the following:

(a) Except as prescribed in § 159.304–2 (b), information used in U.S. documents and material, which documents and material are exempt from the General Declassification Schedule and categorized as paragraph (a), (b), (c) or (d) under the provisions of § 159.302–1 shall, unless declassified earlier, become automatically declassified at the end of 30 full calendar years after the date of original classification except for such specifically identified categories of information and material which the head of the originating military department or the Secretary of Defense for other components personally determines in writing at the end of the 30 year time period to require continued protection against unauthorized disclosure because such continued protection is essential to the national security or disclosure would place a person in immediate jeopardy. In such case, the aforementioned officials shall also specify the period of continued classification.

(b) Information and material which is scientific or technical in nature which concerns systems, installations or projects specifically designated as exempt from the General Declassification Schedule under § 159.302–1(c) shall, unless declassified earlier, become automatically declassified at the end of 15 full calendar years after the date of original classification except for such specifically identified categories of information or material which the exempting official personally determines in writing at that time to require continued protection against unauthorized disclosure. In such case, the exempting official shall also specify the period of continued classification which in no case shall exceed 30 full calendar years after the date of its original classification. Any determination to continue the classification of this body of material beyond 30 years requires the personal consideration of the Secretary of Defense or the Secretary of the Military Department concerned as prescribed in § 159.304–1.

§ 159.304–3 Requests for review.

A request by a member of the public or by a United States Government Department or Agency to review classified information more than 30 years old shall be referred directly to the Archivist of the United States for action in accordance with § 159.304–1. Such requests shall be processed within the Department of Defense in the manner prescribed in § 159.303–3. The provisions of § 159.303–4 are also applicable to these cases.

Transfer of Classified Documents or Material

§ 159.305 Material officially transferred.

In the case of classified information or material transferred by or pursuant to statute or Executive Order from one department or agency to another for the latter's use and as part of its official files or property, as distinguished from transfers merely for purpose of storage, the receiving department or agency shall be deemed to be the classifying authority over such material for purposes of downgrading and declassification.

§ 159.305–1 Material not officially transferred.

When any department or agency of the Department of Defense has in its possession any classified information or material originated in an agency outside the Department of Defense which has since become defunct and whose files and other property have not been officially transferred to another department or agency within the meaning of § 159.305, or when it is impossible for the possessing department or agency to identify the originating agency, and a review of the material indicates that it should be downgraded or declassified, the said possessing department or agency shall have the power to declassify or downgrade such material. If it appears probable that another department or agency may have a substantial interest in whether the classification of any particular information should be maintained, the possessing department or agency shall not exercise the power conferred upon it by this paragraph, except with the consent of the other department or agency, until thirty days after it has notified such other department or agency of the nature of the material and of its intention to downgrade or declassify the same. During such thirty-day period the other department or agency may, if it so desires, express its objections to downgrading or declassifying the particular material, but the power to make the ultimate decision shall reside in the possessing department or agency.

§ 159.305–2 Transfer for storage or retirement.

Insofar as practicable, classified documents shall be reviewed to determine whether or not they can be downgraded or declassified prior to being forwarded to records centers or to the National Archives for storage. When this is done, certification of classification review shall be entered on or affixed to the transmittal form, Records Transmittal and Receipt Form, SF 135, or similar document, and appropriate changes reflecting downgrading or declassification shall be indicated as necessary on each document.

Miscellaneous Actions

§ 159.306 Notification of changes in classification or of declassification.

When classified material, which has been properly marked with specific dates or events under § 159.403–1 a or b of this regulation, is remarked in accordance therewith, it is not necessary to issue notices of those remarkings to any holders. However, when downgrading or declassification action is determined by appropriate authority to occur earlier than originally scheduled, or upgrading is involved, or the exemption status is changed, the action official or the custodian of the records shall promptly notify all addressees to whom the information or material was originally transmitted. Notification shall include the specific action to be taken, the authority therefor and the effective date. Upon receipt of notification of change in classification or exemption status or of declassification, recipients shall effect the proper changes and shall notify addressees to whom in turn they have transmitted the classified information or material.

§ 159.306–1 Presidential papers.

The Archivist of the United States has the authority to review and declassify information and material which has been classified by a President, his White House Staff or special committee or commission appointed by him and which the Archivist has in his custody at any archival depository, including a Presidential Library. Such declassification shall only be undertaken in accord with:

(a) The terms of the donor's deed of gift.

(b) Consultations with the Departments having a primary subject matter interest.

(c) The provisions of this Subpart.

§ 159.306–2 General review requirements.

All information and material classified after June 1, 1972, which is determined under applicable records administration standards to be of sufficient historical or other value to warrant preservation as permanent records, shall be systematically reviewed on a timely basis by the appropriate custodian for the purpose of making such information and material publicly available if, after consideration under §§ 159.300 through 159.302–1, Subpart—Downgrading and Declassification, it is declassified. Whenever possible, without destroying the integrity of the files, such information and material should be set aside for public release on request.

§ 159.306–3 Declassification of encrypted messages.

(a) *Messages encrypted prior to February 1, 1946.* Declassification of messages in this category has been and will

continue to be based solely on the informational content of the messages.

(b) *Messages encrypted during the period February 1, 1946 through May 31, 1960.* The requirement that messages in this category (so-called category "B" messages) to be paraphrased and the date-time group physically removed prior to declassification is cancelled. Effective immediately, declassification of each message will be based solely on the informational content of the message.

(c) *Messages encrypted subsequent to May 31, 1960.* Communications Centers have received instructions via KAG–1 and Department and Agency implementing documents to perform necessary cryptographic editing on these messages prior to release from the Communications Centers. Declassification of messages in this category by holders outside Communications Centers is based solely on the informational content of the messages. Further cryptographic editing is not required.

Subpart—Marking

General Provisions

§ 159.400 Designations.

Subject to the special situation set forth in § 159.400–2, information determined to require classification protection against unauthorized disclosure under the provisions of this regulation shall be so designated, generally in the form of physical marking. Designation by means other than physical marking may be used but should be followed by physical marking as soon as practicable.

§ 159.400–1 Purpose of designation.

Designation by physical marking, notation or other means, serves to inform and to warn the holder of the classification of the information involved, the degree of protection against unauthorized disclosure which is required for that particular level of classification, and to facilitate downgrading and declassification actions.

§ 159.400–2 Exception.

No article which, in whole or in part, has appeared in newspapers, magazines or elsewhere in the public domain, nor any copy thereof, which is being reviewed and evaluated by any component of the Department of Defense to compare its content with official information which is being safeguarded in the Department of Defense by security classification, may be marked on its face with any security classification, control or other kind of restrictive marking. The results of the review and evaluation shall be separate from the article in question.

§ 159.400–3 Documents or other material in general.

Each classified document shall, in addition to other markings required by this subpart, show on its face its overall classification and whether it is subject to or exempt from scheduled downgrading and declassification (See Subpart—Downgrading and Declassification). It shall also show the office of origin, the identity of the classifier (see § 159.201), the date of preparation and classification, and, except as provided herein, be so marked as to indicate which portions are classified, at what level, and which portions are not classified in order to facilitate excerpting and other use. Other material shall, whenever practicable, show the foregoing information on the material itself or in related or accompanying documentation.

§ 159.400–4 Wholly unclassified material.

Normally, unclassified material shall not be marked or stamped "Unclassified" unless it is essential to convey to a recipient of such material that it has been examined specifically with a view to imposing a security classification and has been determined not to require classification.

Classification Markings on Documents

§ 159.401 Overall and page marking.

Except as otherwise specified for working papers (see § 159.702–4), the overall classification of a document, whether or not permanently bound, or any copy or reproduction thereof, shall be conspicuously marked or stamped at the top and bottom on the outside of the front cover (if any), on the title page (if any), on the first page, on the back page and on the outside of the back cover (if any). Each interior page of a document shall be conspicuously marked or stamped at the top and bottom with the highest classification of information appearing thereon, including the designation "Unclassified" when appropriate. In special situations, such as the printing by the Government Printing Office or similar facility of classified documents comprised of many pages (studies, manuscripts, reports, manuals, etc.), the overall classification assigned to the document may be shown on each page *provided*, That the classified and unclassified parts of that page are clearly identified to the recipient by paragraph marking or by other means set forth in the document. In such cases, paragraph marking or other means shall take precedence over page marking.

§ 159.401–1 Marking components.

In some complex documents, its major components are likely to be used separately. In such instances, each major component shall be marked as a separate document. Examples include: (a) Each annex, appendix, or similar component of a plan, program, or operations order; (b) attachments and appendices to a memorandum or letter; (c) each major part of a report.

§ 159.401–2 Paragraph marking.

Each section, part, paragraph or subparagraph, when there are differences in their classifications, shall be marked to show the level of classification, if any, or that such section, part, paragraph or subparagraph is unclassified. For example, when the text of the lead in (basic) portion of a paragraph is unclassified but subsequent subparagraphs are classified, the lead in paragraph shall be marked as Unclassified and each subparagraph shall be marked with its respective classification status as appropriate. In this instance, the symbol denoting the overall classification of the paragraph would be shown immediately following the paragraph number or letter as the case may be. At the end of the text of the unclassified lead in paragraph the symbol "(U)" shall be shown. Classification levels of subparagraphs will be shown by the appropriate classification symbol immediately following the subparagraph letter or number as the case may be. If in an exceptional situation, such marking is determined to be impractical, the document shall contain a description sufficient to identify the exact information which is classified and the categories to which it is assigned. When different items of information in one paragraph require different classifications, but segregation into separate paragraphs would destroy continuity or context, the highest classification required for any item shall be applied to that paragraph. In marking paragraphs, sections or parts, the appropriate marking shall be placed immediately preceding and to the left of the parts involved. If desired, the symbols (TS) for Top Secret, (S) for Secret, (C) for Confidential, and (U) for Unclassified, may be used. When appropriate, the symbols (RD) for Restricted Data and (FRD) for Formerly Restricted Data shall be added. Whenever a useful purpose will be served, paragraphs of U.S. documents containing foreign originated information should be marked to reflect the country or International Pact Organization of origin and the appropriate classification, e.g., "NATO(S)" or "U.K.(C)."

§ 159.401–3 Compilations.

In cases where the use of a classification is required to protect a compilation of information under § 159.202–14, the overall classification assigned to such documents shall be placed conspicuously at the top and bottom of each page and on the outside of the front and back covers, if any, and an explanation of the basis for the assigned classification shall be included on the document or in its text.

§ 159.401–4 Subjects, titles, abstracts and index terms.

Subjects, titles, abstracts and index terms shall be selected, if possible, so as not to require classification. However, a classified subject, title, abstract or index term may be used when necessary to convey meaning. To show its classified or unclassified status, each such item shall be marked with the appropriate symbol, (TS), (S), (C), or (U) placed immediately following and to the right of the item. When appropriate, the symbols (RD) and (FRD) shall be added.

§ 159.401–5 Files, folders or groups of documents.

Files, folders or groups of documents shall be conspicuously marked to assure

their protection to a degree as high as that of the most highly classified document included therein. Classified document cover sheets may be used for this purpose. Documents separated from the file, folder or group shall be marked as prescribed herein for individual documents.

§ 159.401–6 Transmittal documents.

A transmittal document, including indorsements and comments when such indorsements and comments are added to the basic communication, shall carry on its face a prominent notation as to the highest classification of the information transmitted by it, and a legend showing the classification, if any, of the transmittal document, indorsement or comment standing alone. For example, in the case of an unclassified document which transmits as an attachment a classified document, it shall bear a notation substantially as follows: Regraded Unclassified When Separated From Classified Enclosure.

§ 159.401–7 Electrically transmitted messages.

Classified messages shall be marked at the top and bottom with the assigned classification and paragraph marked in the manner prescribed above for documents. In the case of a message printed by an automated system, these classification markings may be applied by that system, provided that the markings so applied are made clearly distinguishable on the face of the document from the printed text. In addition, the first item of information in the text of a classified message will be the overall classification of the message. The originator of classified messages will in all cases, be considered the accountable classifier in accordance with § 159.200 and no "classified by" line is necessary on the message. The originator is responsible for maintaining adequate records (as required by § 159.200) to show the origin of the classifications assigned. Any document which is subsequently created whose classification is based solely upon the classification of the content of a classified message shall cite the message in the "classified by" line on the newly created document. The last line or paragraph of a classified message shall show either:

(a) "ADS(*)". For messages assigned to Advanced Declassification Schedule.

(b) "GDS(**)". For messages assigned to General Declassification Schedule.

(c) "XGDS(***) (****)". For messages exempted from the General Declassification Schedule.

*(Indicate declassification date or event); e.g. ADS (2 Jan 74)

**(Indicate last two digits of declassification year); e.g. GDS (79)

***(Indicate number of Exemption category)

****(Indicate last two digits of declassification year if known); e.g. XGDS (3) (02)

(d) "XCL(*****)". For messages classified on basis of former Group 1, 2, 3 and not group marked, i.e. excluded material.

§ 159.401–8 Translations.

Translations of United States classified information into a language other than English shall be marked to show the United States as the country of origin and shall be marked with the appropriate classification markings under §§ 159.401 through 159.401–8 and the foreign language equivalent thereof. (See § 159.1500–1, Appendix B)

Classification Markings on Special Categories of Material

§ 159.402 General provisions.

The assigned security classification and downgrading/declassification instructions shall be conspicuously stamped, printed, written, painted, or affixed by means of a tag, sticker, decal, or similar device, on classified material other than documents, and on their containers, if possible. If the material or container cannot be marked, written notification of the security classification shall be furnished to recipients. Following are the procedures for marking the security classification on various kinds of material other than ordinary documents. These are not all inclusive and may vary somewhat with organizational and operational requirements and with the physical characteristics of the material.

§ 159.402–1 Charts, maps and drawings.

Charts, maps and drawings shall bear the appropriate classification marking under the legend, title block or scale, in such manner as to differentiate between the classification assigned to the document as a whole and the classification assigned to the legend or title. The markings also shall be inscribed at the top and bottom of each such document. When the customary method of folding or rolling charts, maps or drawings would cover the classification markings, additional classification markings shall be placed so as to be clearly visible when the document is folded or rolled.

§ 159.402–2 Photographs, films and recordings.

Photographs, films, including negatives, recordings, and their containers shall be marked in such a manner as to assure that any recipient or viewer will know that classified information of a specified level of classification is involved.

(a) *Photographs.* Negatives and positives shall be marked with the appropriate classification markings and kept in containers bearing conspicuous classification markings. Roll negatives shall be marked at the beginning and end of each strip and single negatives marked with the appropriate classification. Each photographic print shall be marked with the appropriate classification at the top and bottom of the face side and where practicable the center of the reverse side. Caution must be exercised when using self-processing film or paper to photograph or reproduce classified material, since the negative of the last exposure may remain in the camera. All component parts of the last exposure shall be removed and destroyed as classified waste or the camera shall be protected as classified material.

(b) *Transparencies and slides.* The applicable classification markings shall be shown on each transparency or slide. Other applicable markings, when practical, shall be shown on the border, holder, or frame.

(c) *Motion picture films.* Classified motion picture films shall be marked at the beginning and end of each reel by titles bearing the appropriate classification. Such markings shall be visible when projected on the screen. Reels shall be kept in containers bearing conspicuous classification markings.

(d) *Recordings.* Recordings, sound or electronic, shall contain at the beginning and end a statement of the assigned classification which will provide adequate assurance that any listener or receiver will know that classified information of a specified level of classification is involved. Recordings shall be kept in containers or on reels that bear conspicuous classification markings.

§ 159.402–3 Decks of accounting machine cards.

A deck of classified accounting machine cards may be considered as a single document. Only the first and last card require clasification markings. A deck so marked shall be stored, transmitted, destroyed and otherwise handled in the manner prescribed for other classified documents of the same classification. An additional card shall be added, however, to identify the contents of the deck and the highest classification involved. Cards removed for separate processing or use, and not immediately returned to the deck after processing, shall be protected to prevent compromise of any classified information contained therein, and for this purpose shall be marked individually as prescribed herein for an individual ordinary document.

§ 159.402–4 Electrical machine and automatic data processing tapes.

Electrical machine and Automatic Data Processing (ADP) tapes shall bear external markings and internal notations sufficient to assure that any recipient of the tapes, or of the classified information contained therein when reproduced by any medium, will know that classified information of a specific classification category is involved.

§ 159.402–5 Pages of ADP listings.

Classification markings on pages of listings produced by ADP equipment may be applied by the equipment provided

*****(When appropriate under §§ 159.301–1 and 159.404–1 indicate last two digits of downgrading year for former Group 3 material under DoD classification cognizance); e.g. XCL (82)

that the markings so applied are made clearly distinguishable on the face of the document from the printed text. As a minimum, such listings shall be marked with the security classification on the first and last pages of the listing and on the front and back covers, if any, as prescribed in § 159.401 for ordinary documents.

§ 159.402–6 Material for training purposes.

Classified material used for training purposes shall be transmitted, stored, and otherwise safeguarded as prescribed in this regulation. In utilizing unclassified documents (material) for training purposes, the unclassified documents (material) shall be marked "(insert classification) for training, otherwise unclassified".

§ 159.402–7 Miscellaneous material.

Material, such as rejects, typewriter ribbons, carbons, and similar items, developed in connection with the handling, processing, production, and utilization of classified information shall be handled in a manner which assures adequate protection of the classified information involved and that destruction is effected at the earliest practicable moment. Unless a requirement exists to retain this type material for a specific purpose, there is no need to mark, stamp, or otherwise indicate that the recorded information is classified.

DOWNGRADING AND DECLASSIFICATION MARKINGS

§ 159.403 Regrading and declassification markings.

Whenever classified material is downgraded, declassified or upgraded, the material shall be promptly and conspicuously marked to indicate the change, the authority for the action, the date of the action and the identity of the person or activity taking the action. In addition, except for upgrading (see § 159.403–2), all the old classification markings shall be cancelled, if practicable, but in any event on the first page, and the new classification markings, if any, shall be substituted. In cases where classified material is downgraded or declassified under the provisions of this regulation and is marked as prescribed in § 159.403–1, such markings shall suffice to meet the aforementioned requirements.

§ 159.403–1 Downgrading and declassification.

At the time of origination, each classified document or other material, shall, in addition to the security classification markings prescribed by §§ 159.401 through 159.402–7 and the foregoing provision of § 159.403, be marked to reflect downgrading and declassification instructions in accordance with the following:

(a) *Action by specific date or event.* When specific dates or events for downgrading and declassification, with emphasis on declassification without intervening downgrading, are predetermined under the provisions of § 159.300–1 (earlier than those declassification limits of the General Declassification Schedule), documents and other material shall be conspicuously marked to show clearly to the recipient of such material when downgrading and declassication action is intended by the originator to occur. For this purpose the following marking shall be stamped or otherwise printed at the bottom of the first page or title page or shall be placed conspicuously in a similarly prominent place immediately below, or adjacent to and in conjunction with the classification marking:

Downgrade to:
Secret on (effective date)
Confidential on (effective date)
Declassify on (effective date)
Classified by_____

The effective date in this case may fall on any specific day or month of a calendar year or, in its place, could be inserted a specific event such as, for example, "Declassify on Date of Rollout".

(b) *General Declassification Schedule.* When specific dates for downgrading and declassification are assigned in accordance with the provisions of §§ 159.301 through 159.301–2, Subpart—Downgrading and Declassification (General Declassification Schedule), documents and other material shall be marked in the following manner:

Classified by_____
Subject to General Declassification Schedule of Executive Order 11652 automatically downgraded at two year intervals declassified on December 31, (Year)

(c) *Exemptions from General Declassification Schedule.* Unless marked RD or FRD (see §§ 159.405–1 and 159.405–2), documents or material containing information which is exempt from the General Declassification Schedule under the provisions of §§ 159.302 and 159.302–1, Subpart—Exemptions from General Declassification Schedule, hereof shall be marked for downgrading and declassification purposes in the following manner:

Classified by_____
Exempt from General Declassification Schedule of Executive Order 11642 exemption category_____
declassify on_____(effective date) _____

All information and material over which the Department of Defense exercises exclusive or final original classification authority, and which is automatically declassified under the provisions of § 159.304–2 of this regulation shall, on the "Declassify on" line show December 31 of a particular calendar year for such automatic declassification. In those cases where information and material is exempt from the General Declassification Schedule under the provisions of §§ 159.302 and 159.302–1, Subpart—Exemptions from General Declassification Schedule, of this regulation and such information is not under the exclusive or final classification authority of the DoD, the words "Upon notification by the originator" shall be included in the "Declassify on" line.

(d) Information or material prepared and classified on or after June 1, 1972, the classification of which is based exclusively on a pre-June 1972 source document marked as Group 1, 2, 3, or 4 under Executive Order 10501, as amended, or not group marked, or on a pre-June 1972 security classification guide which should have been but has not yet been updated and which still prescribes such group markings, shall be marked as follows:

(1) If the pre-June 1972 source document is marked Group 1 or 2, or the pre-June 1972 security classification guide prescribes Group 1 or 2, or the pre-June 1972 source document is not group marked, the information or material prepared and classified on or after June 1, 1972 shall be marked "Classified by _____, Excluded from General Declassification Schedule" (see § 159.404–1 (a) and (c)).

(2) If the pre-June 1972 source document is marked Group 3 (see § 159.404–1 (b)) or the pre-June 1972 security classification guide prescribes Group 3, the information or material prepared and classified on or after June 1, 1972 shall be marked:

(i) (If the source document or guide is under the exclusive or final classification jurisdiction of DoD)

Downgrade to:

Secret on (effective date—12 years from date of origin of source material or from date of pre-June 1972 security classification guide)

Confidential on (effective date—12 years from date of origin as Secret or from date of automatic downgrading to Secret under provisions of § 159.301–1(b))

Declassify on (enter-"Not Automatically Declassified")

Classified by (see § 159.201)

The stamp prescribed under paragraph (a) of this section shall be used for the above purpose.

(ii) (If the source document or guide is not under DoD Classification jurisdiction):

Classified by (see § 159.201) excluded from general declassification Schedule

(3) If the pre-June 1972 source document is marked Group 4, or the pre-June 1972 security classification guide prescribes Group 4, the information or material prepared and classified on or after June 1, 1972 shall be marked in accordance with § 159.403–1(b) with the starting date of the General Declassification Schedule corresponding to the date of origin of the source material or the date of the guide involved.

(e) If the classifier inadvertently fails to mark a document with one of the foregoing markings, the recipient shall mark it in accordance with paragraph (b) of this section unless he has reason to believe that the material warrants an exemption. In this case, the recipient will refer the matter to the originator for decision. In the event the originator determines that an exemption is appropriate, he (the originator) shall notify

all holders of his action and the authority therefor.

(f) The Restricted Data (§ 159.405–1) and Formerly Restricted Data (§ 159.405–2) markings are, in themselves, evidence of Category 2 exemption and the exemption stamp (paragraph (C) of this section) is not to be used when such markings appear on the material. However, except for electrically transmitted messages, a "classified by" line shall be added to the RD or FRD notation.

(g) When a document or material includes classified information, either newly developed or extracted from one or more sources, which is designated under more than one of the provisions of paragraph (a), (b) or (c) of this section, the single downgrading and declassification marking assigned the document or material shall be the most restrictive of those which are applicable to the information contained therein. When more than one category of exempted material is involved, the single downgrading and declassification marking shall reflect the identification of such categories.

§ 159.403–2 Upgrading.

When material is upgraded under the provisions of this regulation, it shall be promptly and conspicuously marked as prescribed in § 159.403, except that in all such cases the old classification markings shall be canceled and new substituted therefor.

§ 159.403–3 Limited use of posted notice for large quantities of material.

When the volume of material is such that prompt re-marking of each classified item could not be accomplished without unduly interfering with operations, the custodian may attach downgrading and declassification notices to the storage unit in lieu of the re-marking otherwise required by § 159.403. Each notice shall specify the authority for the downgrading or declassification action, the date of the action and the storage unit to which it applies. When individual documents or other materials are withdrawn from storage units, they shall be promptly remarked with the proper security classification category, or the classification marking canceled, if declassified, on at least the first page. However, when documents or other material subject to a downgrading or declassification notice are withdrawn from one storage unit solely for transfer to another, or a storage unit containing such documents or other material is transferred from one place to another, the transfer may be made without re-marking if the notice is attached to or remains with each shipment.

RE-MARKING OLD MATERIAL

§ 159.404 Re-marking material already marked Group 4.

When a document or other material classified before June 1, 1972 and marked with a Group 4 marking under E.O. 10501, as amended, is removed from file or storage for any purpose, it shall be remarked in accordance with § 159.403–1 (b) or § 159.403–1(c), as appropriate to the determination made under § 159.301–1. In either case the "classified by" line need not be filled in. In the case of documents re-marked in accordance with § 159.403–1(c), adequate records shall be maintained to support the action.

§ 159.404–1 Re-marking material already marked Group 1, 2, or 3, or not group marked.

Material already marked Group 1, 2, or 3, or not group marked shall be treated as follows:

(a) When a document or other material classified before June 1, 1972 and marked with a Group 1 or 2 marking or not group marked at all under Executive Order 10501, as amended, is removed from file or storage for any purpose, it shall, except as provided in paragraph (c) of this section, be re-marked "Excluded from General Declassification Schedule."

(b) A document or other material classified before June 1, 1972, containing information under the final or exclusive classification jurisdiction of the Department of Defense and marked with a Group 3 marking under Executive Order 10501, as amended, shall not be remarked "Excluded from General Declassification Schedule" as prescribed by this regulation prior to this amendment. Any such re-marking already applied need not be cancelled or obliterated. The old Group 3 marking "Downgraded at 12 Year Intervals—Not Automatically Declassified" shall continue, without interruption, to constitute downgrading instructions to the holder. Information and material classified and marked Group 3 under Executive Order 10501, as amended, by other Agencies of the Executive Branch shall, when removed from file or storage for any purpose, be re-marked in the manner prescribed for Group 1 or 2 material in paragraph (a) of this section.

(c) The re-marking of a document or other material as stated in paragraph (a) of this section or the continued effectiveness since May 31, 1972 of the old Group 3 marking as stated in (b), above, does not relieve the original classification authority of the information involved from immediately downgrading or declassifying the information in accordance with § 159.300, or from setting specific future dates or events for automatic downgrading or declassification in accordance with § 159.300–1; or from placing the information under the General Declassification Schedule in accordance with § 159.301, or from referring the information to an appropriate Top Secret classification authority for consideration for exemption in accordance with § 159.302. If any of these actions is taken by the original classification authority, the document or other material shall be appropriately marked in accordance with § 159.403–1, except that the "classified by" line need not be filled in. In these cases appropriate notice shall be given in accordance with § 159.306.

ADDITIONAL WARNING NOTICES

§ 159.405 General provisions.

When applicable, in addition to the foregoing marking requirements, one or more of the following warning notices shall be prominently displayed on classified documents or materials. In the case of documents, these warning notices shall be conspicuously marked on the outside of the front cover (if any) or the first page. When display of warning notices on other materials is not feasible, the warnings shall be included in the written notifications of the assigned classification.

§ 159.405–1 Restricted Data.

For classified information or material containing Restricted Data as defined in the Atomic Energy Act of 1954, as amended:

RESTRICTED DATA

This material contains Restricted Data as defined in the Atomic Energy Act of 1954. Its dissemination or disclosure to any unauthorized person is prohibited.

§ 159.405–2 Formerly Restricted Data.

Except when the Restricted Data notice is used, for classified information or material containing Formerly Restricted Data, as defined in section 142.d., Atomic Energy Act of 1954, as amended:

FORMERLY RESTRICTED DATA

Unauthorized disclosure subject to administrative and criminal sanctions. Handle as Restricted Data in foreign dissemination. Section 144b, Atomic Energy Act, 1954.

§ 159.405–3 Information other than Restricted Data or Formerly Restricted Data.

For classified information or material other than described in § 159.405–1 or § 159.405–2 furnished to persons outside the Executive Branch:

NATIONAL SECURITY INFORMATION

Unauthorized Disclosure Subject to Criminal Sanctions

§ 159.405–4 Sensitive intelligence information.

For classified information or material containing sensitive intelligence information, the following warning notice shall be used, in addition to and in conjunction with those prescribed in §§ 159.405–1, 159.405–2 or § 159.405–3, as appropriate:

WARNING NOTICE-SENSITIVE INTELLIGENCE SOURCES AND METHODS INVOLVED

Additional dissemination marking requirements applicable to this type material are prescribed in § 159.100(m).

§ 159.405–5 Use of "No foreign dissem" ("Noforn") marking.

The marking "No foreign dissem" may be used on documents containing (a) intelligence, and (b) crypto security, transmission security, and emission security systems used to transmit intelligence, when it has been predetermined that the data may not be released to foreign nationals or governments. Additionally, the marking "Noforn" is authorized for the

above described information as a designator for "No foreign dissem" in electrically transmitted messages and automatic data processing. (See § 159.100 (m) and USCSB Policy Dir 2–23 for dissemination controls.) The marking "Special handling required—not releasable to foreign nationals" is no longer authorized.

Subpart—Safekeeping and Storage

Storage and Storage Equipment

§ 159.500 General policy.

Classified information or material may be used, held, or stored only where there are facilities or under conditions adequate to prevent unauthorized persons from gaining access to it. The exact nature of security requirements will depend on a thorough security evaluation of local conditions and circumstances. They must permit the accomplishment of essential functions while affording selected items of information various reasonable degrees of security with a minimum of calculated risk. The requirements specified in this regulation represent the minimum acceptable standards.

§ 159.500–1 Standards for storage equipment.

The General Services Administration establishes and publishes uniform standards, specifications and supply schedules for containers, vaults, alarm systems and associated security devices suitable for the storage and protection of classified information and material throughout the Government. The head of a DoD Component may establish for the use of such component equal or more stringent standards. Security filing cabinets conforming to Federal Specifications bear a Test Certification Label on the locking drawer attesting to the security capabilities of the container and lock (on some early cabinets, the label was located on the wall inside the locked drawer compartment). Such cabinets manufactured after February 1962 will also be marked "General Services Administration Approved Security Container" on the outside of the top drawer.

§ 159.500–2 Storage of classified material.

Whenever classified material is not under the personal control and observation of an authorized person, it will be guarded or stored in a locked security container as prescribed below:

(a) *Top Secret.* Top Secret material shall be stored in:

(1) A safe or safe-type steel file container having a three-position dial-type combination lock as approved by the General Services Administration, or a Class A vault which meets the standards established by the head of the DoD component concerned.

(2) An alarmed area, provided such facilities are adjudged by the local responsible official to afford protection equal to or better than that prescribed in paragraph (a)(1) of this section. When an alarmed area is utilized for the storage of Top Secret material, the physical barrier must be adequate to prevent surreptitious removal of the material, and observation when observation would result in the compromise of the material. The physical barrier must be such that forcible attack will give evidence of attempted entry into the area or room. The alarm system must as a minimum provide immediate notice to a security force of attempted surreptitious forced entry.

(b) *Secret and Confidential.* Secret and Confidential material may be stored in the manner authorized for Top Secret; or, in a Class B vault, or a vault type room, strong room, or secure storage room, which has been approved in accordance with the standards prescribed by the head of the DoD component; or, until phased out, in containers described in paragraph (d) of this section.

(c) *Specialized security equipment*—(1) *One-drawer container.* One-drawer, GSA approved security containers are used primarily for storage of classified information in mobile communication assemblages or transportable tactical assemblages. Such containers must be securely fastened or guarded to prevent the theft of the container. Mobile facilities which contain one-drawer security containers housing classified material will be afforded the protection necessary to prevent the theft of the entire mobile unit.

(2) *Field safe.* A field safe has been approved by GSA and listed on the Federal Supply Schedule. Precautions similar to those prescribed for the one-drawer container should be taken to prevent theft.

(3) *Map and plan file.* A GSA approved Map and Plan file has been developed for storage of odd-sized items such as computer cards, maps, and charts.

(d) *Non-GSA approved containers.* In addition to the security containers meeting GSA standards, Secret and Confidential material may be stored in a steel filing cabinet having a built-in, three-position, dial-type combination lock; or, as a last resort, an existent steel filing cabinet equipped with a steel lock bar, provided it is secured by a GSA approved changeable combination padlock.

§ 159.500–3 Procurement and phase-in of new storage equipment.

(a) *Preliminary survey.* New security storage equipment shall not be procured until:

(1) A current physical survey has been made of on-hand security equipment and classified records, and

(2) It has been determined, based upon the survey, that it is not feasible to use available equipment or to retire, return, declassify or destroy a sufficient volume of records currently on hand to make the needed security storage space available.

(b) *Purchase.* Whenever new security storage equipment is procured, it will be from the security containers listed on the Federal Supply Schedule, GSA. Further acquisition for security containers not on the Federal Supply Schedule, or modification of cabinets to bar-padlock type as storage equipment for classified information and material is prohibited. Exceptions may be made by heads of components, with notification to the Assistant Secretary of Defense (Comptroller).

(c) Nothing in this subpart shall be construed to modify existing Federal Supply Class Management Assignments made under DoD Directive 5030.47, "National Supply System," May 27, 1971.

§ 159.500–4 Designations and combinations.

(a) *Numbering and designating storage facilities.* Each vault or container used for the storage of classified material shall be designated but not externally marked as to the level of classified material authorized to be stored therein. Each vault or container shall be assigned a number or symbol for identification purposes. The number or symbol shall be affixed in a conspicuous location on the outside of the vault or container.

(b) *Combinations to containers*—(1) *Changing.* Combinations to security containers will be changed only by individuals having an appropriate security clearance. Combinations will be changed under any of the following circumstances:

(i) When placed in use after procurement.

(ii) Whenever an individual knowing the combination is transferred, discharged, or reassigned from the element to which the security container is assigned, or the security clearance of an individual knowing the combination is reduced, suspended, or revoked by proper authority.

(iii) When the combination or record of combination has been compromised or the security container has been discovered unlocked and unattended.

(iv) At least annually unless more frequent change is dictated by the type material stored therein.

(2) *Classifying combinations.* The combination of a vault or container used for the storage of classified material shall be assigned a security classification equal to the highest category of the classified material authorized to be stored therein.

(3) *Recording storage facility data.* A record shall be maintained for each vault, secure room, or container used for storing classified material, showing location, the names, home addresses, and home telephone numbers of persons having knowledge of the combinations to such storage facilities. To meet the above minimum standards, GSA Optional Form 63 may be used within DoD for these purposes.

(4) *Dissemination.* Knowledge of or access to the combination of a vault or container used for the storage of classified material shall be given only to those appropriately cleared persons who are authorized access to the classified information stored therein and who must have it for efficient operation.

(5) *Repair.* Uncleared personnel will not be permitted to change combinations or to neutralize lock-outs on security containers utilized for the storage of classified material. This service will be

provided by personnel specifically trained in approved methods of combination changing, maintenance, neutralization of lock-outs, and repair of any perforations effected during neutralization of lock-outs.

CUSTODIAL PRECAUTIONS

§ 159.501 Responsibilities of custodians.

(a) Custodians of classified material shall be responsible for providing protection and accountability for such material at all times and particularly for locking classified material in appropriate security equipment whenever it is not in use or under direct supervision of authorized persons. Custodians shall follow procedures which insure that unauthorized persons do not gain access to classified information or material by sight or sound or other means and classified information shall not be discussed with or in the presence of unauthorized persons.

(b) Classified information or material shall not be removed from officially designated office or working areas for the purpose of working on such material during off duty hours or for other purposes involving personal convenience. The head of a component or his designee may authorize removal from such working areas in cases of compelling necessity, provided that appropriate component regulations applicable to such situations ensure maximum protection possible under the circumstances.

§ 159.501–1 Care during working hours

Each individual shall take precaution to prevent access to classified information by unauthorized persons. Among the precautions to be followed are:

(a) Classified documents, when removed from storage for working purposes, shall be kept under constant surveillance and face down or covered when not in use. As existing stocks are exhausted and U.S. standard form document cover sheets become available such shall be the only forms authorized for use by DoD components for these purposes.

(b) Preliminary drafts, carbon sheets, plates, stencils, stenographic notes, worksheets, and all similar items containing classified information shall be either (1) destroyed by the person responsible for their preparation immediately after they have served their purposes, or (2) shall be given the same classification and safeguarded in the same manner as the classified material produced from them.

(c) Typewriter ribbons used in typing classified material shall be protected in all respects in the same manner as the highest level of classification for which they have been so used. When destruction is necessary, it shall be accomplished in the manner prescribed for classified working papers, of the same classification. After the upper and lower sections have been cycled through the machine five times in the course of regular typing all fabric ribbons may be treated as unclassified. Carbon and plastic typewriter ribbons and carbon paper which have been used in the production of classified information shall be destroyed in the manner prescribed for working papers of the same classification after initial usage. As an exception to the foregoing, any typewriter ribbon which remains substantially stationary in the typewriter until it has received at least five consecutive impressions may be treated as unclassified.

§ 159.501–2 Care after working hours.

All heads of activities shall require a sytem of security checks at the close of each working day to ensure that the classified material held by the activity is properly protected. They shall require the custodian of the classified material to make an inspection which shall ensure, as a minimum, that:

(a) All classified material is stored in the manner prescribed.

(b) Burn bags are properly stored or destroyed.

(c) The contents of wastebaskets which contain classified material have been properly stored or destroyed.

(d) Classified shorthand notes, carbon paper, carbon and plastic typewriter ribbons, rough drafts, and similar papers have been properly stored or destroyed. As a matter of routine during the day, such items shall be placed in burn bags immediately after they have served their purpose.

(e) As existing stocks are exhausted, Optional Form No. 62 shall be used by DoD components for security container check purposes.

§ 159.501–3 Care of working spaces.

The following precaution shall be taken to provide protection of classified information.

(a) Necessary safeguards shall be afforded to buildings and areas in which classified material is kept.

(b) Precautions shall be taken to minimize any danger of inadvertent disclosure of classified information in conversations. Classified information shall not be discussed in public places.

§ 159.501–4 Emergency planning.

(a) Plans shall be developed for the protection, removal, or destruction of classified material in case of natural disaster, civil disturbance, or enemy action. Such plans shall establish detailed procedures and responsibilities for the protection of classified material so that it does not fall into unauthorized hands in event of an emergency; and shall indicate what material is to be guarded, removed, or destroyed. An adequate emergency plan should provide for: Guarding the material; removing the classified material from the area; complete destruction of the classified material on a phased, priority basis; or appropriate combinations of those actions.

(b) Emergency plans shall provide for the protection of classified information in a manner which will minimize the risk of loss of life or injury to personnel. The immediate placement of a perimeter guard force around the affected area, preinstructed and trained to prevent the removal of classified material by unauthorized personnel, is an acceptable means of protecting classified material and reducing casualty risk.

§ 159.501–5 Telecommunications conversations.

Classified information shall not be discussed in telephone conversations except as may be authorized over approved secure communication circuits.

§ 159.501–6 Security of meetings and conferences.

The official responsible for arranging or convening a conference or other meeting is also responsible for instituting procedures and selecting facilities which provide adequate security if classified information is to be discussed or disclosed. The responsible official will:

(a) Notify each person who is to present or disclose classified information of the security limitations that must be imposed because of:

(1) The level of access authorization.

(2) Requirement for access to the information by the attendees.

(3) Physical security conditions.

(b) Insure that each person attending the classified portions of meetings has been authorized access to information of equal or higher classification than the information to be disclosed.

(c) Insure that the area in which classified information is to be discussed affords adequate security against unauthorized access.

(d) Insure that adequate storage facilities are available.

(e) Control and safeguard any classified material furnished to those in attendance and retrieve the material or obtain receipts, as required.

(f) Monitor the meetings to insure that discussions are limited to the level authorized.

Subpart—Compromise of Classified Information

§ 159.600 Policy.

The compromise of classified information presents a threat to the national security. The seriousness of that threat must be determined and appropriate measures taken to negate or minimize the adverse effect of such a compromise. Simultaneously, action must be taken to regain custody of the material and to identify and correct the cause of the compromise.

§ 159.600–1 Cryptographic information.

The procedures for handling compromises of cryptographic information are set forth in National Security Agency KAG I D (§ 159.100(w)).

§ 159.600–2 Responsibility of discoverer.

Any person who has knowledge of the actual or possible compromise of classified information (as defined in § 159.102–5) shall immediately report the circumstances to a responsible official.

§ 159.600–3 Preliminary inquiry.

The designated responsible official will initiate a preliminary inquiry to determine the circumstances surrounding the actual or possible compromise. The preliminary inquiry should establish either:

(a) That a loss of classified information or material did not occur or that the circumstances indicate the possibility that classified information was compromised as being remote. Expenditure of time and effort on unproductive investigation should be avoided. If the responsible official determines that the probability of compromise is remote, and that no significant activity security weakness is found and disciplinary action is not appropriate, the report of initial inquiry will suffice; or

(b) That an actual compromise did occur or that the possibility of compromise cannot be discounted. Upon this determination, the responsible official will:

(1) Report the circumstances to appropriate authority as specified in component instructions.

(2) If the responsible official is the originator, he shall take the action prescribed in § 159.600–6.

(3) If other than the originator, notify the originator of the known details of the compromise to include identification of the classified information or material involved. In the event the originator is unknown, notification will be sent to the office specified in component instructions.

§ 159.600–4 Investigation.

If it is determined that further investigation is warranted, such investigation will include the following:

(a) Complete identification of each item of classified information involved.

(b) A thorough search for the classified material.

(c) Fixing responsibility for the compromise.

(d) A statement that compromise occurred or that compromise is probable, or

(e) Statement that compromise did not occur or that possibility of compromise is considered remote.

§ 159.600–5 Responsibility of authority ordering investigation.

(a) The report of investigation shall be reviewed to insure compliance with this regulation and instructions issued by component.

(b) The adequacy of recommendations contained in the report of investigation shall be reviewed for remedial, administrative or disciplinary action and the report of investigation forwarded with recommendations through supervisory channels.

§ 159.600–6 Responsibility of originator.

The originator or an official higher in the originator's supervisory chain will, upon receipt of notification of loss or possible compromise of classified informa- take action as prescribed in § 159.202–13.

§ 159.600–7 Espionage and deliberate compromise.

Cases of espionage and deliberate compromise shall be reported in accordance with DoD Instruction 5200.22 (§ 159.100 (f)), DoD Directive 5210.50 (§ 159.100 (g)), and implementing issuances.

§ 159.600–8 Unauthorized absentees.

When an individual who had had access to classified material is on unauthorized absence, appropriate inquiry, depending upon the length of absence and the degree of sensitivity of the classified information involved, shall be conducted to determine if there are any indications that his activities, behavior or associations may be inimical to the interests of national security. In those cases where there are such indications a report shall be made to the component counterintelligence organization.

Subpart—Access, Dissemination and Accountability

Access

§ 159.700 Policy.

The dissemination of classified information orally, in writing, or by any other means, shall be limited to those persons whose official duties require knowledge or possession thereof. No one has a right to have access to classified information solely by virtue of rank or position. The final responsibility for determining whether a person's official duties require that he possess or have access to any element or item of classified information, and whether he has been granted the appropriate security clearance by proper authority, rests upon each individual who has authorized possession, knowledge, or control of the information involved and not upon the prospective recipient. These principles are equally applicable if the prospective recipient is an organizational entity, including commands, other Federal Agencies, defense contractors, foreign governments, and others.

§ 159.700–1 Determination of trustworthiness.

Except as provided in § 159.700–6, no person shall be given access to classified information or material unless a determination has been made as to his trustworthiness. The determination of eligibility, referred to as a security clearance, will be based on a background or full field investigation for Top Secret and on a National Agency Check or Entrance NAC for Secret and Confidential, in accordance with the standards and criteria of DoD Directives 5210.8 (§ 159.100(h)) and 5220.6 (§ 159.100(t)), as appropriate. Interim clearances may be granted in accordance with the provisions of DoD Directive 5210.8. United States citizen employees of contractors with classified Government contracts may be granted Confidential clearances by the contractor under policies established by the Assistant Secretary of Defense (Comptroller) and published by the Defense Supply Agency (DSA) under the Industrial Security Program, except that such clearances are not valid for Restricted Data, Cryptographic information, communications intelligence, or NATO, SEATO, and CENTO information classified Confidential.

§ 159.700–2 Continuous evaluation of eligibility.

All DoD elements shall initiate a program for a periodic evaluation of clearance for classified information with special emphasis directed to the clearance criteria cited in DoD Directives 5210.8 (§ 159.100(h) and 5220.6 (§ 159.100(t)). This program should include close coordination with security, personnel, medical, legal and supervisory officials to assure that all pertinent information available within a command is evaluated when an individual is cleared or is being considered for clearance.

§ 159.700–3 Determination of need-to-know.

In addition to a security clearance, a person must have a need for access to the particular classified information or material sought in connection with the performance of his official duties or contractual obligations. The determination of that need shall be made as provided in § 159.700.

§ 159.700–4 Administrative withdrawal of security clearance.

Each component and the DSA for the Industrial Security Program, shall make provision for administratively withdrawing the security clearance of any persons for whom there is no foreseeable need for access to classified information or material in connection with the performance of their official duties or contractual obligations of contractors. Likewise, when a person no longer needs access to a particular security classification category, the security clearance shall be adjusted to the classification category still required for the performance of his duties and obligations. In both instances, such action will be without prejudice to the persons' eligibility for a future security clearance.

§ 159.700–5 Revocation of security clearance for cause.

A security clearance may be revoked for cause when it is determined in consonance with due process of law that a person holding such clearance is no longer reliable or trustworthy.

§ 159.700–6 Access by persons outside the Executive Branch.

Classified information may be made available to persons or agencies outside the Executive Branch provided that such classified information is necessary for their performance of a function from which the Government will derive a benefit or advantage, and that such release is not prohibited by the originating department or agency. Heads of DoD components shall designate appropriate officials who shall determine, prior to the release of classified information under this provision, the propriety of

such action in the interest of national security and assurance of the recipient's trustworthiness and need-to-know.

(a) *Congress.* Access to classified information or material by Congress, its committees, members, and staff representatives shall be in accordance with DoD Directive 5400.4 (§ 159.100(i)). Additionally, any DoD individual testifying before a Congressional committee in executive session in relation to a classified matter, shall obtain the assurance of committee representatives that everyone present has a security clearance commensurate with the highest classification of the information that may possibly come up for discussion. Members of Congress, by virtue of their elected positions, are not investigated or cleared by the Department of Defense.

(b) *Government Printing Office (GPO).* In order to utilize efficiently the most appropriate Government facilities for large scale reproduction of DoD printed materials, material of all classifications may be processed by the GPO, which protects the information in accordance with Department of Defense-Government Printing Office Agreement, dated June 26, 1956.

(c) *Representatives of the General Accounting Office (GAO).* Representatives of the GAO may be granted access to classified information originated by and in possession of the DoD when such information is relevant to the performance of the statutory responsibilities of that office, as set forth in DoD Directive 7650.1 (§ 159.100(j)). Officials of the GAO, as designated in Appendix C, (§ 159.1500–2) are authorized to certify security clearances, and the bases therefor. (The GAO has adopted DoD standards for granting personnel security clearances.) Certifications will be made by these officials pursuant to arrangements with the DoD component concerned. Personal recognition or presentation of the official credential cards issued by the GAO to its personnel are acceptable for identification purposes.

(d) *Industrial, educational and commercial entities.* Bidders, contractors, grantees, educational, scientific or industrial organizations, may be determined to be eligible for access to classified information only when it is essential to the accomplishment of a function which is necessary in the interest of promoting the national security, provided the individuals are appropriately cleared in accordance with the DoD Industrial Security Regulation; DoD 5220.22–R (§ 159.100(bb)).

(e) *Historical researchers.* Persons outside the Executive Branch who are engaged in historical research projects, may be authorized access to classified information or material, provided that:

(1) It is determined that such access is clearly consistent with the interests of national security.

(2) The material requested is reasonably accessible and can be located and compiled with a reasonable amount of effort.

(3) The person agrees to safeguard the information and to authorize a review of his notes and manuscript for determination that no classified information is contained therein by signing a statement entitled "Conditions Governing Access to Official Records for Historical Research Purposes."

(4) An authorization for access shall be valid for a period of two years from the date of issuance and may be renewed under regulations of the issuing component.

(f) *Former Presidential appointees.* Persons who previously occupied policy-making positions to which they were appointed by the President, may be authorized access to classified information or material which they originated, reviewed, signed, or received, or which was addressed to them while in public office. DoD components may authorize access to such material if it is determined to be consistent with the interests of national security and the person agrees to safeguard the information and to authorize a review of his notes for determination that no classified information is contained therein, and that no classified information will be further disseminated or published. The former Government officials referred to herein do not include the White House Staff, or Presidential special committees or commissions.

(g) *Foreign nationals, foreign governments, international organizations, and immigrant aliens.* Classified information may be released:

(1) To foreign nationals, foreign governments and international organizations, only when specifically authorized under the provisions of the National Disclosure Policy and § 159.100(l), and

(2) To immigrant aliens who reside and intend to reside permanently in the United States, only at the Confidential and Secret level, in the performance of official duties, provided that they have been granted a security clearance of the required level based upon a favorable Background Investigation.

With regard to Top Secret information, immigrant aliens may be granted a Limited Access Authorization for a specific contract or program based upon the personal and written determination by the Head of the DoD component concerned that such access is essential to meet Government requirements and that the individual is reliable and trustworthy in accordance with § 159.100(t). A report of each such determination shall be furnished currently to the Assistant Secretary of Defense (Comptroller). As an exception to the foregoing, those immigrant aliens who hold Top Secret clearances as of June 1, 1972, remain eligible to hold such clearances until July 1, 1974.

(h) Classified information released outside of the Executive Branch shall be marked in accordance with the provisions of § 159.405–3, above.

§ 159.700–7 Emergency situations.

When time is of the essence and it is in the interest of national security to do so, Heads of DoD components or their designees may authorize persons outside the Federal Government other than those enumerated in § 159.700–6 above, to have access to classified information or material on a finding that the person to receive the information is trustworthy for the purpose of accomplishing the national security objective and that the intended recipient can and will safeguard the information from unauthorized disclosure sufficiently to accomplish the purposes for which it was given him.

§ 159.700–8 Access required by other Executive Branch investigative and law enforcement agents.

(a) Under normal procedures investigative agents of other departments or agencies obtain access to DoD information, whether classified or not, through established liaison or investigative channels.

(b) In special cases when the urgent or delicate nature of a Federal Bureau of Investigation or Secret Service investigation precludes advance coordination with and obtaining prior approval, of the Head of the DoD installation or activity, such photographs or other records as are required for the instant investigative case may be made by the FBI or Secret Service agents involved. However, these photographs or other records must be protected as required for the classification of the material concerned, and copies provided to the Head of the installation or activity or higher authority for review pursuant to 18 U.S.C. 795, to determine security classification or the need to sanitize for open publication.

Dissemination

§ 159.701 Policy.

Components shall establish procedures for the dissemination of classified material originated or received by them, subject to specific rules established by higher authority and by this regulation. As a further limit on dissemination, the originating official or activity may prescribe specific restrictions on a classified document or in its text when security considerations make them necessary.

§ 159.701–1 Restraints on special access requirements.

Special requirements with respect to access, distribution and protection of classified information shall require prior specific approval in accordance with Subpart—Special Access Programs.

§ 159.701–2 Material originating in a non-DoD department or agency.

Except under rules established by the Secretary of Defense, classified material originating in a non-DoD Department or Agency shall not be disseminated outside the DoD without the consent of the originating Department or Agency, except as otherwise provided by section 102 of the National Security Act, 61 Stat., 495, 50 U.S.C. 403, which authorizes the Director of Central Intelligence to correlate and disseminate intelligence within the Government.

§ 159.701–3 Intelligence material.

Dissemination of intelligence material shall be in accordance with the provisions of § 159.100(m).

§ 159.701–4 Restricted Data and Formerly Restricted Data.

Material bearing the warning notices prescribed in Subpart—Marking shall not be disseminated outside authorized channels without the permission of the originator. The policy and procedures governing access to and dissemination of Restricted Data by DoD personnel are specified in DoD Directive 5210.2 (§ 159.100(n)).

§ 159.701–5 NATO, CENTO, SEATO information.

Classified information originated by NATO, CENTO, or SEATO shall be safeguarded in accordance with DoD Instructions C–5210.21, C–5210.35, and 5210.54 (§ 159.100 (o), (p), and (q), respectively).

§ 159.701–6 Cryptographic information.

Cryptographic information shall be disseminated in accordance with NSA KAG 1 D (§ 159.100(w)).

§ 159.701–7 Dissemination of Top Secret material.

(a) Top Secret material, originated within DoD, may not be disseminated outside the DoD, without the consent of the originating Department or Agency, or higher authority.

(b) Top Secret material, whenever severable from lower classified portions, shall be accorded separate distribution on a more selective basis than the balance of the information.

§ 159.701–8 Dissemination of Secret and Confidential material.

Classified material other than Top Secret, originating within DoD may be disseminated within the Executive Branch, unless specifically prohibited by the originator.

§ 159.701–9 Restraint on reproduction.

Those portions of documents and materials which contain Top Secret information shall not be reproduced without the consent of the originating activity or higher authority. All other classified material shall be reproduced sparingly, in the minimum number of copies, and any stated prohibition against reproduction shall be strictly observed. The following restrictive measures apply to reproduction equipment and to the reproduction of classified material:

(a) The number of copies of documents containing classified information shall be kept to a minimum to decrease the risk of compromise and reduce storage costs.

(b) Officials, by position title, authorized to approve the reproduction of Top Secret and Secret material shall be designated. These designated officials will carefully review the need for reproductions with a view toward minimizing classified reproductions consistent with operational requirements and reproduction prohibitions imposed by the material originator or higher authority.

(c) Specific reproduction equipment shall be designated for the reproduction of classified material. Reproduction of classified material shall be restricted to equipment so designated. Rules to minimize human error, inherent in the reproduction of classified material, will be posted on or near the designated equipment.

(d) Appropriate warning notices prohibiting reproduction of classified material shall be posted on equipment used only for the reproduction of unclassified material.

(e) If the designated equipment involves reproduction processes using extremely sensitive reproduction paper, such paper, shall be used and stored in a manner to preclude image transfer of classified information.

(f) All copies of classified documents reproduced for any purpose including those incorporated in a working paper are subject to the same controls prescribed for the document from which the reproduction is made.

§ 159.701–10 Code words, nicknames and exercise terms.

The DoD policy and procedures governing the use of code words, nicknames and exercise terms are set forth in Appendix D (§ 159.1500–3).

§ 159.701–11 Scientific and technical meetings.

Security measures for use of classified information in scientific and technical meetings are prescribed in DoD Directive 5200.12, § 159.100(z).

ACCOUNTABILITY AND CONTROL

§ 159.702 Top Secret.

All elements of the DoD shall establish the following procedures:

(a) Control officers: Top Secret Control Officers, and alternates, shall be designated within offices to be responsible for receiving, maintaining accountability registers of, and dispatching Top Secret documents. Such individuals shall be selected on the basis of experience and reliability, and shall have appropriate security clearances.

(b) Accountability: Top Secret accountability registers shall be maintained within offices. In addition, the originating and any subsequent offices shall keep disclosure records on each document copy which contains the document title, name and date, of all individuals, including stenographic and clerical personnel, who, during such originator's or holder's period of custody, are afforded access to information contained in the documents. This does not include individuals within an activity who may have had access to containers in which Top Secret information is stored, or who regularly administratively handled a large volume of such information. Such personnel are considered identifiable by roster as having had access to such type information on any given date. Disclosure records shall be retained for two years after the documents are transferred, downgraded, or destroyed.

(c) Inventories: Top Secret documents shall be physically sighted, or accounted for by examination of written evidence of proper disposition, such as, certificate of destruction, transfer receipt, etc., at least once annually, and more frequently when circumstances warrant. At the same time, each Top Secret document shall be audited to determine completeness and accuracy. As an execption, repositories, libraries or activities which store large volumes of classified material may limit their annual inventory to all documents and material to which access has been given in the past 12 months, and 10 percent of the remaining inventory.

(d) Reproduction and retention: Top Secret documents shall be kept to the minimum consistent with current requirements. In this connection, provision shall be made for responsible custodians to destroy non-record Top Secret documents, as soon as their intended purpose has been served. Top Secret record documents which cannot be destroyed shall be re-evaluated and, when appropriate, downgraded, declassified, or retired to designated records centers.

(e) Receipts: Top Secret material will be accounted for by a continuous chain of receipts.

(f) Each copy of a Top Secret document will be numbered serially for accounting purposes.

§ 159.702–1 Secret.

Administrative procedures shall be established controlling Secret material (a) originated or received by an element; (b) distributed or routed to components of, or activities within, the element; and (c) disposed of by the element by transfer of custody or destruction. The control system for Secret must be determined by the practical balance of security and operating efficiency.

§ 159.702–2 Confidential.

Administrative provisions shall be established which will provide protection for Confidential information received, originated, transmitted or stored by an element.

§ 159.702–3 Receipt of classified material.

Procedures shall be developed within DoD activities to ensure that all incoming mail, bulk shipments and material delivered by messenger are adequately protected until a determination is made as to whether classified material is contained therein. Screening points, determined by the activity mail handling procedures, shall be established to ensure that incoming classified material is properly controlled and that access to classified material is limited to cleared personnel.

§ 159.702–4 Working papers.

Working papers are documents, including drafts, photographs, etc., accumulated or created to assist in the formulation and preparation of a finished

document. Working papers containing classified information will be:

(a) Dated when created.

(b) Marked with the highest classification of any information contained in the document.

(c) Protected in accordance with the classification assigned.

(d) Destroyed when they have served their purpose.

(e) Accounted for or controlled in the same manner prescribed for a finished document of comparable classification when:

(1) Released by the originator to an agency or activity outside a headquarters or when transmitted through message center channels within a headquarters.

(2) Placed permanently in a file system.

(3) Retained more than 180 days from date of origin.

(f) All working papers shall be marked with downgrading or exemption instruction when placed in permanent files.

§ 159.702–5 Data index system.

The NSC Directive, § 159.100(c), requires each Department to undertake to establish a data index system covering classified information and material in selected categories as having sufficient historical or other value appropriate for preservation. The DoD is considering the identification of such categories of information and material and the feasibility of various systems for the reporting and indexing of such information.

Subpart—Transmission

Methods of Transmission or Transportation

§ 159.800 Policy.

When classified material must be physically moved, any means of transportation may be used, with the following exceptions:

(a) Classified material shall not be hand-carried aboard commercial passenger aircraft by DoD civilian employees, military members, and contractor employees of cleared facilities under the Defense Industrial Security Program unless the official authorized to approve travel orders and designate courier individuals to handcarry such, shall have made written prior determination that an emergency situation exists, and that:

(1) There is neither time nor other transmission means available to move the material in the times required to accomplish operational objectives and contract requirements, to include Request for Quotation (RFQ) and Request for Bid (RFB),

(2) The procedural and documentary requirements set forth in §§ 159.800–1 and 159.801 through 159.802–3 will be followed.

(b) The carrying of classified material across national borders shall not be permitted unless the responsible official concerned has made provisions to preclude customs, postal, or other inspections (see §§ 159.800–1, 159.800–2 and 159.800–3).

(c) Foreign carriers may not be utilized unless the U.S. escort has physical control of the classified material.

(d) If it is determined that the conditions described in § 159.800(a)(1) exist, classified material may be carried or shipped on commercial passenger aircraft moving within or between the area encompassed by the United States, and its territories, and Canada. Classified material may not be carried on commercial passenger aircraft moving to or from the described areas, or from place to place outside such area.

§ 159.800–1 Top Secret.

Transmission of Top Secret shall be effected only by:

(a) The Armed Forces Courier Service (ARFCOS),

(b) Authorized Component Courier Services,

(c) If appropriate, the Department of State Courier System,

(d) Cleared and designated personnel traveling on a conveyance owned, controlled or chartered by the government or DoD contractors,

(e) Cleared and designated U.S. Military personnel or Government civilian employees by surface transportation,

(f) Cleared and designated U.S. Military personnel or Government civilian employees on scheduled commercial passenger aircraft within and between the United States and its territories, and Canada, when the applicable provisions of this subpart are adhered to,

(g) Cleared and designated DoD contractor employees by surface means within U.S. boundaries only or on scheduled commercial passenger aircraft within and between the United States and its territories when the applicable provisions of this subpart are adhered to,

(h) Approved electrical means or electrical means in unencrypted form over Protected Wireline Distribution Systems which have been approved by the Director, Defense Communications Agency or his designee, or other authorities designated by the United States Communications Security Board.

§ 159.800–2 Secret.

Transmission of Secret material may be effected by:

(a) Any of the means approved for the transmission of Top Secret, except that Secret material may be introduced into the ARFCOS only when the control of such material cannot otherwise be maintained in U.S. custody. (The foregoing restriction on introduction into ARFCOS does not pertain to cryptological and cryptographic material.)

(b) Appropriately cleared contractor employees for transmission within and between the area encompassed by the United States and its Territories. In other areas, contractor employees may transmit Secret material by surface means within national borders, only when it is necessary for the contractor employee in the performance of the contract, project or mission to remove the classified information from a United States Government activity.

(c) United States Postal Service registered mail within and between the United States and its Territories.

(d) United States Postal Service registered mail through Army, Navy, or Air Force Postal Service facilities, outside the area described in c. above, provided that the material does not at any time pass out of United States citizen control and does not pass through a foreign postal system.

(e) United States Postal Service registered mail with registered mail receipt between United States Government and/or Canadian Government installations in the United States and Canada.

(f) Qualified carriers authorized to transport Secret material via a Protective Security Service (PSS) under the Department of Defense Industrial Security Program. This method is authorized only within United States boundaries and only when the size, bulk, weight, nature of the shipment, or escort considerations make the use of other methods impractical.

(g) Other carriers under escort of appropriately cleared personnel. Carriers included are Government and Government contract vehicles, aircraft, ships of the United States Navy, civil service manned United States Naval ships, and ships of U.S. Registry. Appropriately cleared operators of vehicles, officers of ships or pilots of aircraft who are United States citizens may be designated as escorts provided the control and surveillance of the carrier is maintained on a 24-hour basis. The escort shall protect the shipment at all times, through personal observation or authorized storage to prevent inspection, tampering, pilferage or unauthorized access until delivery to the consignee. However, observation of the shipment is not required during the period it is stored in an aircraft or ship in connection with flight or sea transit, provided the shipment is loaded into a compartment which is not accessible to any unauthorized persons aboard, or loaded in specialized containers, including closed cargo containers.

(h) Electrical means over approved communication circuits.

§ 159.800–3 Confidential.

Transmission of Confidential material may be effected by:

(a) Any means approved for the transmission of Secret material. However, United States Postal Service registered mail shall be used for Confidential only where indicated in paragraph (c) of this section.

(b) United States Postal Service certified or First Class Mail between Department of Defense Component locations within and between the United States and its Territories. However, the outer envelopes/wrappers of such Confidential material shall be endorsed "Postmaster: Do Not Forward Outside Areas Served by U.S. Civil Post Offices."

Certified, or if appropriate, registered mail, shall be used for material directed to DoD contractors.

(c) United States Postal Service registered mail for (1) Confidential material of NATO, SEATO and CENTO; (2) to and from FPO or APO addressees located outside the area set forth in § 159.800–3(b), above; and (3) other addressees when the originator is uncertain that their location is within the United States boundaries. Use of return postal receipts on a case-by-case basis is authorized.

(d) Within United States boundaries, commercial carriers which provide a Security Signature Service (SSS). This method is authorized only when the size, bulk, weight, nature of the shipment or escort considerations make the use of other methods impractical.

(e) In the custody of commanders or masters of ships of United States registry who are United States citizens. Confidential material shipped on ships of United States registry may not pass out of United States Government control. The commanders or masters must receipt for the cargo and agree to: (1) Deny access to the Confidential material by unauthorized persons, including customs inspectors, with the understanding that Confidential cargo which would be subject to customs inspection will not be unloaded; and (2) maintain control of the cargo until a receipt is obtained from an authorized representative of the consignee.

(f) *Alternative transmission of confidential.* The head of any component having authority to originally classify information or material as "Confidential" may, by rule or regulation provide alternate or additional methods affording at least an equal degree of security for the transmission of such material outside the department.

§ 159.800–4 Transmission of classified material to foreign governments.

(a) Subsequent to a determination by competent authority that classified material may be released to a foreign government, it shall be transmitted only:

(1) To an embassy or other official agency of the recipient government which has extra territorial status, or

(2) For on-loading aboard a ship, aircraft or other carrier designated by the recipient government at the point of departure from the United States, or its territories, provided that at the time of delivery a duly authorized representative of the recipient government is present at the point of departure to accept delivery, to insure immediate loading, and to assume security responsibility for the classified material.

(3) To a cleared storage facility located at or near the loading point.

(b) Classified material shall be transferred on a government-to-government basis by duly authorized representatives of each government, and shall not pass to a foreign government until a delivery receipt, to include a United States postal receipt where applicable, has been executed by a duly authorized representative of the recipient foreign government.

(c) Each contract, agreement or arrangement which contemplates transfer of classified material to a foreign government within the United States, its territories and possessions, shall designate a point of delivery in accordance with paragraph (a)(1), (a)(2), or (a)(3) of this section. If delivery is to be made at a point described in paragraph (a)(2) of this section, the contract, agreement, or arrangement shall provide for United States Government storage, or storage by a cleared commercial carrier or other cleared storage point at or near the delivery point, so that the classified material may be temporarily stored in the event the carrier designated by the recipient foreign government is not available for loading. Any storage facility used or designated for this purpose must afford the classified material the protection required by this regulation.

(d) If classified material is to be delivered to a foreign government within the recipient country, it shall be transmitted in accordance with this subpart. Unless the material is accompanied by a designated or approved courier or escort, it shall, on arrival in the recipient country, be delivered to a United States Government representative who shall arrange for transfer to a duly authorized representative of the recipient foreign government.

(e) If classified material is to be delivered to the representatives of a foreign government within a third country it shall be delivered by a U.S. courier or escort to such representative at an agency or installation of the United States or of the recipient country which has extraterritorial status or is otherwise exempt from the jurisdiction of the third country.

§ 159.800–5 Consignor-consignee responsibility for shipment of bulky material.

The consignor of a bulk shipment shall:

(a) Normally, select a carrier which will provide a single line service from the point of origin to destination, when such a service is available.

(b) Ship packages weighing less than 200 pounds gross only in closed vehicles.

(c) Notify the consignee, and military transshipping activities, of the nature of the shipment (including level of classification), the means of shipment, the numbers of seals if used, and the anticipated time and date of arrival by separate communication at least 24 hours in advance of arrival of the shipment. Advise the first military transshipping activity that, in the event the material does not move on the conveyance originally anticipated, the transshipping activity should so advise the consignee with information of firm transshipping date and estimated time of arrival. Upon receipt of the advance notice of a shipment of classified material, consignees and transshipping activities shall take appropriate steps to receive the classified shipment and to protect it upon arrival.

(d) Annotate the bills of lading to require the carrier to notify the consignor immediately, by the fastest means, if the shipment is unduly delayed enroute. Such annotations shall not, under any circumstances, disclose the classified nature of the commodity.

(e) Require the consignee to advise the consignor of any shipment not received more than 48 hours after the estimated time of arrival furnished by the consignor or transshipping activity. Upon receipt of such notice, the consignor shall immediately trace the shipment. If there is evidence that the classified material was subjected to compromise, the procedures set forth in Subpart—Compromise of Classified Information of this regulation for reporting compromises shall apply.

§ 159.800–6 Transmission of Communications Security (COMSEC) material.

Communications Security (COMSEC) material shall be transmitted in accordance with National Security Agency KAG–1D.

§ 159.800–7 Transmission of Restricted Data.

Restricted Data documents shall be transmitted in the same manner as other material of the same security classification. The transporting and handling of nuclear weapons or nuclear components shall be in accordance with applicable component directives.

Restrictions on Classified Material

§ 159.801 Personnel in a travel status.

When the responsible official has determined in accordance with the provisions of § 159.800, that it is necessary for personnel in travel status to carry classified material in the performance of official duties, the following shall apply:

(a) A determination shall be made to ascertain whether the necessary classified material is available at the destination of the traveler. If the material is available, no additional transmission shall be authorized.

(b) If the needed classified material is not available at the destination of the traveler, responsible officials shall, whenever possible, have the classified material transmitted to the activity being visited by other authorized means.

(c) If it is impossible to comply with either paragraph (a) or (b), of this section, responsible officials may authorize appropriately cleared personnel to carry or transmit classified material on their persons between their duty station and the activity to be visited subject to the following conditions:

(1) The classified material shall be in the physical possession of the individual at all times if proper storage at a United States Government activity or appropriately cleared contractor facility (continental United States only) is not available. Classified material shall not be left

in such places as locked automobiles, hotel rooms, hotel safes, train compartments, private residences, public lockers, etc.

(2) Classified material shall not be read, studied, displayed, or used in any manner in public conveyances or places.

(3) When classified material is carried in a private, public or Government conveyance, it shall not be stored in any detachable storage compartment such as automobile trailers, luggage racks, aircraft travel pods or drop tanks.

(4) Written statements authorizing the transmission or carrying of classifield material shall be provided by responsible officials to all individuals traveling outside of or direct flight between the areas encompassed by the United States and its Territories, and Canada or utilizing commercial aircraft. This authorization statement, which may be included in official travel orders, also should ordinarily permit the individual to pass through any customs without the need for subjecting the classified material to inspection. If difficulty with customs is encountered the individual shall refuse to disclose the classified material to customs inspection, and take action under the appropriate provisions of § 159.802.

(5) A list of all classified material carried or transmitted by individuals traveling will be maintained by the command to which the individual is attached. Upon return of the traveler, all classified material shall be accounted for.

(6) All individuals authorized to carry or transmit classified material while in a travel status shall be fully informed of the provisions of this subpart prior to departure from their duty station.

§ 159.801–1 Travel on commercial passenger aircraft susceptible to hijacking.

(a) As a result of hijackings, close attention must be given to the necessity for travel by commercial passenger aircraft of personnel hand-carrying classified material and of personnel having knowledge of sensitive information.

(b) In the event that an individual is a passenger aboard a commercial passenger aircraft which is hijacked and landed in a foreign country, he shall conduct himself as follows:

(1) If identification is required and an individual is in uniform, he shall show his Armed Forces Identification Card. If in civilian clothes, he should show civilian identification initially; however, if asked directly if he is in the armed forces, he should not attempt to deny military affiliation.

(2) If questioned or interrogated in a foreign country, commonsense judgment shall be used in making any response but personnel shall not under any circumstances reveal classified information.

(3) Upon return to United States control, official United States investigators may want to debrief detainees. Personnel should, therefore, observe and mentally note the methods and procedures used by the detainer during their stay in the foreign countries.

(c) If, as the result of hijacking of an aircraft to a foreign country, classified material is compromised or subjected to compromise, or there are indications of attempts at foreign intelligence exploitation of personnel or material, appropriate security officials shall be notified immediately.

PROCEDURE FOR HAND-CARRYING CLASSIFIED INFORMATION ON COMMERCIAL PASSENGER AIRCRAFT

§ 159.802 Prerequisites.

The provisions of §§ 159.800 through 159.801–1 contain prerequisites which must be met prior to the authorization under this section to hand-carry classified material aboard commercial passenger aircraft.

§ 159.802–1 Basic requirements.

(a) Advanced and continued coordination by DoD Component and contractor officials shall be made with departure airline/terminal officials and, where possible, with intermediate transfer terminals to develop mutually satisfactory arrangements within the terms of this issuance and FAA guidance.

(b) The individual designated as courier shall be in possession of either DD Form 2 (any color) or other DoD or contractor picture identification card and written authorization to carry classified material (see § 159.802–2 and § 159.802–3 below).

(c) The courier shall have been briefed as to the provisions of §§ 159.801 and 159.801–1 and of §§ 159.802 through 159.802–4.

§ 159.802–2 Procedures for carrying classified documents.

Persons carrying classified documents should process through the airline ticketing and boarding procedure in the same manner as all other passengers, except for the following:

(a) The passenger shall present himself at the screening station for routine processing. The classified documents being carried shall contain no metal bindings and shall be contained in sealed envelopes. Should such envelope be contained in a briefcase or other carry-on luggage, the briefcase or luggage shall be routinely offered for opening for inspection for weapons. The screening official should be able to inspect the envelopes by flexing, feel, weight, etc., without any requirement for opening the envelopes themselves.

(b) In the event that the screening official is not satisfied, the passenger at that time shall inform the official that the envelopes contain classified material, and shall exhibit an official U.S. Government or company (picture) identification card, plus separate travel authorization.

(c) At that point, the screening official will process the envelopes with a detection device.

(1) If no alarm results, the envelopes require no further examination.

(2) If an alarm results, the passenger shall not be permitted to board, and, therefore, is not subject to further screening for boarding purposes.

(3) The passenger, himself, and all other items he may be carrying will be subject to routine screening.

(d) Opening or reading the classified documents by the screening official is not permitted.

§ 159.802–3 Procedures for classified material in packages.

Classified material in sealed or packaged containers, normally, because of size, weight, or other physical characteristics, are not suitable for processing under § 159.802–2(a). Such material shall be processed as follows:

(a) The Government or contractor official who has authorized the transport of the classified material shall notify the appropriate air carrier in advance of this situation.

(b) Upon arriving at the terminal, the passenger carrying the material shall report to the affected airline ticket counter prior to boarding, present his documentation, and the package or cartons to be exempt from screening. The airline representative will review the documentation and description of the containers to be exempt. The official may make a telephone call to a representative of the authorizing official, as shown on the letter of authorization, for additional verification.

(c) If satisfied, with the identification of the passenger and his documentation, the official will provide the passenger with an escort to the screening station and authorize the screening personnel to exempt the container from physical or other type inspection. The passenger and other items he may be carrying shall continue to be subject to routine screening.

(d) If the airline official is not satisfied with the authenticity of the passenger and his documentation, the passenger will not be permitted to board, and, therefore, is not subject to further screening for boarding purposes.

§ 159.802–4 Documentation.

(a) Persons carrying envelopes as provided in § 159.802–2, shall have a picture identification card and travel authorization which specifically describes the envelopes carried which contain classified information.

(b) When authorized to carry packages (§ 159.802–3) both government and contractor personnel shall present an identification card or credential carrying a photograph, descriptive data, and signature of the individual. (If the identification card does not carry descriptive data, i.e., as a minimum, date of birth, height, weight, and signature, these items must be included in the letter of authorization).

(1) DoD personnel shall present an official identification issued by an agency of the U.S. Government.

(2) Contractor personnel shall present identification issued by the contracting firm or company employing the individual, or, in some instances, an

identification issued by the U.S. Government. Contractors' identification cards shall carry the name of the employing contractor, or otherwise be marked to denote "contractor".

(3) The courier shall have the original of a letter authorizing the individual to carry classified material. A reproduced copy is not acceptable; however, the traveler shall have sufficient authenticated copies to provide a copy to each airline involved. The letter shall be prepared on letterhead stationery of the agency or contractor authorizing the carrying of classified material for the trip in question. In addition, the letter shall:

(i) Give the full name of the individual and his employing agency or company;

(ii) Describe the type of identification the individual will present (e.g., Naval Research Laboratory Identification Card. No. 1234; ABC Corporation Identification Card No. 1234);

(iii) Describe the material being carried (e.g., three sealed packages, 9" x 8" x 24", addressee and addressor);

(iv) Identify the point of departure, destination and known transfer points;

(v) Carry a date of issue and expiration date which may not exceed seven days from the date of issue;

(vi) Carry the name, title, and signature of the official issuing the letter. Each package or carton to be exempt shall be signed on its face by the official who signed the letter;

(vii) Carry the name of the government agency designated to confirm the letter of authorization, and its telephone number. The telephone number of the agency designated shall be an official U.S. Government number, for both Government and contractors, that is subject to verification;

(viii) The letter may contain a printed (typed) indorsement for signature of the host official at destination if a round trip requirement is foreseen.

(c) Information relating to the issuance of DoD identification cards is contained in DoD Instruction 1000.13, dated May 23, 1972. The Green, Gray, and Red forms of DD Form 2 and other DoD and contractor picture-ID card are acceptable to FAA. Components shall provide for the issuance of DD Form 1173, appropriately limited, to civilian employees selected for courier duties, if individuals have not been issued other acceptable ID cards.

(d) The Director, DSA, shall provide for the issuance of a DSA/ID card or DD Form 1173 when required by contractor employees selected for courier or handcarrying duties, when the employer involved does not have such available.

(e) Heads of Components or their designees for this purpose shall designate officials who will be authorized to appoint couriers. Such officials should be at a level of an office or headquarters authorized by the Component to issue travel and TDY orders. These officials shall provide for the telephone confirmation listed above.

(f) The Director, DSA, shall provide through the DCASR for authorization for contractor personnel to handcarry packages and for the telephone verification.

Preparation of Material for Transmission or Shipment

§ 159.803 Envelopes or containers.

(a) Whenever classified information is transmitted, it shall be enclosed in two opaque sealed envelopes or similar wrappings where size permits, except as provided below.

(b) Whenever classified material is transmitted of a size not making it suitable for transmission as in a. above, it shall be enclosed in two opaque sealed containers, such as boxes or heavy wrappings. So long as this requirement is observed, the materials may be wrapped, boxed, or crated or a combination thereof.

(1) If the classified material is an internal component of a packageable item of equipment, the outside shell or body may be considered as the inner enclosure.

(2) If the classified material is an inaccessible internal component of a bulky item of equipment that is not reasonably packageable, such as a missile, the outside or body of the item may be considered as the outer enclosure provided the shell or body is not classified.

(3) If the classified material is an item of equipment that is not reasonably packageable and the shell or body is classified it shall be draped with an opaque covering that will conceal all classified features. Such coverings must be capable of being secured so as to prevent inadvertent exposure of the item.

(4) Specialized shipping containers including closed cargo transporters, may be used in lieu of the above packaging requirements. In such cases, the container may be considered the outer wrapping or cover.

(c) Material used for packaging shall be of such strength and durability as to provide security protection while in transit, to prevent items from breaking out of the container, and to facilitate the detection of any tampering with the container. The wrappings shall conceal all classified characteristics.

(d) Closed and locked compartments, vehicles, or cars shall be used for shipments of classified material except when another method is authorized by the consignor. In any event, individual packages weighing less than 200 pounds gross shall be shipped only in a closed vehicle.

(e) To minimize the possibility of compromise classified material caused by improper or inadequate packaging thereof, responsible officials shall ensure that proper wrappings are used for mailable bulky packages. Activities should provide for the stocking of several sizes of cardboard containers, and corrugated paper. Bulky packages shall be sealed with tape which is capable of retaining the impression of any postal marking stamp. Responsible officials shall require the inspection of bulky packages to determine whether the material is suitable for mailing or whether it should be transmitted by other approved means.

§ 159.803–1 Addressing.

(a) Classified material shall be addressed to an official government activity or DoD contractor with a facility clearance and not to an individual. This is not intended, however, to prevent use of office code numbers or such phrases in the address as "Attention: Research Department," or similar aids in expediting internal routing, in addition to the organization address.

(b) Classified written material shall be folded or packed in such a manner that the text will not be in direct contact with the inner envelope or container. A receipt form shall be attached to or enclosed in the inner envelope or container for all Secret and Top Secret material; Confidential material will require a receipt only if the originator deems it necessary. The mailing of written materials of different classifications in a single package should be avoided, particularly the inclusion of Confidential and Unclassified with Secret material. However, when written materials of different classifications are transmitted in one package, they shall be wrapped in a single inner envelope or container. A receipt listing all classified material for which a receipt is requested shall be attached or enclosed. The inner envelope or container shall be marked with the highest classification of the contents.

(c) The inner envelope or container shall show the address of the receiving activity, classification, including where appropriate the "Restricted Data" marking, and any applicable special instructions. It shall be carefully sealed to minimize the possibility of access without leaving evidence of tampering.

(d) An outer or single envelope or container shall show the complete and correct address and the return address of the sender. However, the address may be omitted from the outer enclosures for shipment in full truckload or carload lots.

(e) An outer cover or single envelope or container shall not bear a classification marking a listing of the contents divulging classified information, or any other unusual data or marks which might invite special attention to the fact that the contents are classified.

(f) Care must be taken to ensure that classified material intended only for the United States elements of international staffs or other organizations is addressed specifically to those elements.

§ 159.803–2 Receipt systems.

(a) Top Secret material shall be transmitted under a continuous chain of receipts.

(b) Secret material shall be covered by a receipt between commands and other authorized addresses.

(c) Receipts for Confidential material are not required.

(d) Receipts shall be provided by the transmittor of the material and the forms shall be attached to the inner cover.

(1) Postcard receipt forms may be used.

(2) Receipt forms shall be unclassified and contain only such information as is necessary to identify the material being transmitted.

(3) Receipts shall be retained for at least 2 years.

(e) In those instances where a fly-leaf (page check) form is used with classified publications the postcard receipt will not be required.

§ 159.803–3 Exceptions.

Exceptions may be authorized to the requirements contained in this subpart by the head of the component concerned or his designee, provided the exception affords equal protection and accountability to that provided above. Proposed exceptions which do not meet these minimum standards shall be submitted to the ASD(C) for approval.

Subpart—Disposal and Destruction

§ 159.900 Policy.

Documentary record material made or received by a DoD component in connection with the transaction of public business, and preserved as evidence of the organization, functions, policies, operations, decisions, procedures, or other activities of any Department or Agency of the Government, or because of the informational value of the data contained therein, may be disposed of or destroyed only in accordance with DoD component record management regulations which conform to the Act of July 7, 1943, controlling the disposition of such material: Ch. 192, 57. Stat. 380, as amended (44 U.S.C. 366–380). Nonrecord classified material and other material of similar temporary nature, shall be destroyed as soon as their intended purpose has been served under procedures established by the head of the DoD component consistent with the following requirements.

§ 159.900–1 Methods of destruction.

Classified material shall be destroyed in the presence of an appropriate official by burning, melting, chemical decomposition, pulping, pulverizing, shredding, or multilation sufficient to preclude recognition or reconstruction of the classified information, provided the head of the DoD component concerned, or his designee, has approved the method of destruction, except burning, as one which will preclude reconstruction of the material. The GSA Federal Supply schedule lists some of the approved destruction devices.

§ 159.900–2 Records of destruction.

Records of destruction are required for Top Secret and Secret material and shall be dated and signed by two officials witnessing actual destruction unless the classified material has been placed in burn bags for central disposal. In that case, the destruction record shall be signed by the witnessing officials at the time the material is placed in the burn bags. Records of destruction shall be maintained for a minimum of two years after which they may be destroyed.

§ 159.900–3 Classified waste.

Waste material, such as handwritten notes, carbon paper, typewriter ribbons, et cetera, which contains classified information must be protected in a manner to prevent unauthorized disclosure of the information. Classified waste material shall be destroyed as soon as it has served its intended purpose by one of the methods described in § 159.900–1, but a record of destruction and a witnessing official are not required.

Subpart—Security Education

§ 159.1000 Responsibility and purpose.

Heads of DoD Components are responsible for establishing security education programs for their personnel, designed to carry out the purposes of Executive Order 11652 and its implementing National Security Council Directive. Such programs shall, among other things, stress the objective of classifying less information, declassifying more information, and protecting better that which requires protection, and shall stress appropriate balance between the need to release the maximum information appropriate under the Freedom of Information Act with the interest of the Government in protecting the national security.

§ 159.1000–1 Scope and principles.

The security education program shall include all personnel entrusted with classified information regardless of their position, rank or grade. Each activity shall design its program to fit the particular requirements of the different groups of personnel who have access to classified information. Care must be exercised to assure that the program does not evolve into a perfunctory compliance with formal requirements without achieving the real goals of the program. The program shall be designed to:

(a) Advise personnel of the need for protecting classified information and the adverse effects to the national security resulting from compromise.

(b) Indoctrinate personnel fully in the principles, criteria and procedures for the classification, downgrading and declassification, including marking, of information as prescribed in §§ 159.100—159.405–5 of this regulation and alert them to the strict prohibitions on improper use and abuses of the classification and declassification exemption systems.

(c) Familiarize personnel with the specific security requirements of their particular assignment.

(d) Inform personnel of the techniques employed by foreign intelligence activities in attempting to obtain classified information and their responsibility for reporting such attempts.

(e) Advise personnel of the hazards involved and the strict prohibition against discussing classified information over the telephone or in such manner as to be intercepted by unauthorized persons.

(f) Advise personnel of the disciplinary actions that may result from violations of this regulation.

§ 159.1000–2 Indoctrination briefing.

Persons being assigned to duties requiring access to classified information shall be indoctrinated. This indoctrination shall as a minimum cover the elements outlined in § 159.1000–1.

§ 159.1000–3 Refresher briefings.

Positive programs shall be established to provide periodic security training for personnel having continued access to classified information. The elements outlined in § 159.1000–1, shall be updated and designed to fit the needs of experienced personnel.

§ 159.1000–4 Foreign travel briefings.

Personnel who have had access to classified material shall be given a Foreign Travel Briefing as a defensive measure prior to travel to alert them of their possible exploitation under the following conditions:

(a) Travel to or through communist controlled countries for any purpose.

(b) Attendance at international, scientific, technical, engineering or other professional meetings in the United States or in any country outside the United States where it can be anticipated that representatives of communist controlled countries will participate or be in attendance. (See § 159.100(aa).)

§ 159.1000–5 Debriefings.

(a) Upon termination of employment or contemplated temporary separation for a sixty-day period or more, military members and employees shall be debriefed, return all classified material and be required to execute a Security Termination Statement. This statement shall include the following:

(1) An acknowledgement that the individual executing the statement has read the appropriate provisions of the Espionage Act, other criminal statutes and DoD regulations applicable to the level of classified information to which he has had access and understands the implications thereof.

(2) A recital that the individual no longer has any material containing classified information in his possession.

(3) A recital that the individual shall not communicate or transmit classified information orally or in writing to any unauthorized person or agency.

(4) A recital that the individual will report to the FBI or the DoD component concerned, as appropriate, without delay any incident wherein an attempt is made by any unauthorized person to solicit classified information.

(b) Should an individual refuse to execute a debriefing statement, that information will be reported immediately to the security office of the organization concerned.

Subpart—Foreign Origin Material

CLASSIFICATION

§ 159.1100 Classifying foreign material.

Classified information or material furnished by a foreign government or international organization shall either retain its original assigned classification or be assigned a United States classification that assures equivalent protection. The origin of all material bearing foreign classifications, including material extracted and placed in Department of Defense documents or material, shall be clearly indicated on or in the body of the material to assure, among other things, that the information is not released to nationals of a third country without consent of the originator.

§ 159.1100–1 Equivalent United States classifications.

Foreign security classifications generally parallel United States classifications. A Table of Equivalents is contained in Appendix B (§ 159.1500–1).

§ 159.1100–2 Foreign restricted.

As shown in Appendix B (§ 159.1500–1), a fourth foreign designation, "Restricted," is frequently used. Foreign Restricted information usually does not warrant United States security classification under Executive Order 11652, but it shall be marked as prescribed in § 159.1101–1.

MARKING

§ 159.1101 NATO, CENTO, and SEATO.

Classified information or material originated by NATO, CENTO, or SEATO, if not already marked with the appropriate classification in English, shall be so marked. The exemption marking under § 159.403–1(c) and the warning notice under § 159.405–3 shall not be entered. With respect to material marked Restricted the following additional notation shall be entered: "To be safeguarded in accordance with _____." In the blank space insert:

For NATO: "USSAN Instruction 1–69" (Promulgated by DoD Instruction C–5210.21)
For CENTO: "USSAC Instruction 1–68" (Promulgated by DoD Instruction C–5210.35)
For SEATO: "USSAS Instruction 1–67" (Promulgated by DoD Instruction 5210.54)

§ 159.1101–1 Other foreign material.

Foreign security classifications generally parallel United States classifications (see § 159.1500–1, Appendix B). If the foreign classification is shown in English, no additional classification marking is required. If the foreign classification is not in English, the equivalent English classification, including Restricted when appropriate, shall be entered as prescribed for US documents. The exemption marking under § 159.403–1(c) and the warning notice under § 159.405–3 shall not be entered. With respect to foreign originated material marked Restricted, the following additional notation shall be entered for all cases except those prescribed in § 159.1101: "This material is to be safeguarded in accordance with DoD 5200.1–R."

PROTECTIVE MEASURES

§ 159.1102 NATO, CENTO, and SEATO classified information.

NATO, CENTO, and SEATO classified information shall be safeguarded in accordance with the respective provisions of DoD Instruction C5210.21, DoD Instruction C5210.35 and DoD Instruction 5210.54, § 159.100, (o), (p) and (q) respectively.

§ 159.1102–1 Classified material of foreign origin.

Classified material of foreign origin shall be protected in accordance with the requirements prescribed for United States classified information of a comparable category. Foreign Restricted material shall be protected in all respects in the same manner as United States Confidential, except that Restricted material may be stored in locked filing cabinets, desks or other similar closed spaces which will prevent access to unauthorized persons.

§ 159.1102–2 Downgrading or regrading.

Action will be taken by all U.S. authorities holding foreign classified information to downgrade or regrade such information on receipt of notice of such action by the originating foreign government or international organization.

Subpart—Special Access Programs

§ 159.1200 Policy.

It is the policy of the Department of Defense to utilize the standard classification categories and the applicable sections of Executive Order 11652 and its implementing National Security Council Directive, to limit access to classified information on a "need-to-know" basis to personnel who have been determined to be trustworthy pursuant to such Order and Directive. It is the further policy to apply the "need-to-know" principle in the regular system so that there will be no need to resort to formal Special Access Programs requiring extraordinary procedures, and controls, such as formal access determinations, special briefings, reporting procedures, and recorded formal access lists.

§ 159.1200–1 Definition.

(a) A Special Access Program is any program imposing "need-to-know" or access controls beyond those normally provided for access to Confidential, Secret, or Top Secret information. Such a program includes, but is not limited to, special clearance, adjudication, or investigative requirements, special designation of officials authorized to determine "need-to-know", or special lists of persons determined to have a "need-to-know."

(b) In determining whether a given activity or operation qualifies as a special access program, the following comments govern: A program should be regarded as a special access program if access to the information in the program may be given only after compliance with one or more requirements not generally applicable to the same level of classified information within the DoD. The characteristics of such a program include, but are not necessarily limited to, those listed in paragraph (a) of this section.

§ 159.1200–2 Scope.

The following programs are excluded from the provisions of this chapter:

(a) *Access procedures for NATO, CENTO, and SEATO classified information.* These procedures are based on international treaty requirements and are not originated by the DoD.

(b) *Programs for the collection of foreign intelligence or under the jurisdiction of the U.S. Intelligence Board or the U.S. Communications Security Board.* The security arrangements for such programs are formulated under policies originating outside the DoD.

§ 159.1200–3 Establishment of programs.

(a) All Special Access Programs, within the scope of this chapter, which are desired to be established in the Departments of the Army, Navy, and Air Force after the promulgation date of this Regulation, shall be submitted to the Secretary of the respective Department, with the information referred to in § 159.1200–4, for prior approval. If the Secretary of the Military Department approves the establishment of such program, he shall advise the Assistant Secretary of Defense (Comptroller) and furnish a copy of the information and rationale submitted to him on which he based his approval.

(b) All Special Access Programs, within the scope of this chapter, which are desired to be established in any Department of Defense Component or Agency other than the three Military Departments shall be submitted to the Assistant Secretary of Defense (Comptroller), with the information referred to in § 159.1200–4, for prior approval.

(c) The principal purpose of this paragraph is to obtain an overview of the nature, impact, and scope of special access programs. It is essential to avoid grouping two or more separate programs into a generic classification, such as "space programs" or "missile programs." It is also important to identify subprograms where access criteria are not coextensive with those of the principal program. Further, no two programs should be considered as a single program merely because certain aspects may coincide. In doubtful cases, the question should be resolved by separately identifying each program and explaining its relationship to other programs.

§ 159.1200–4 Reporting of special access programs.

Reports required by § 159.1200–3, shall include as a minimum the following:

(a) Department or Agency.

(b) Unclassified name or short title of program.

(c) Relationship, if any, to other programs in the DoD or other Government Agency.

(d) Rationale and authority for establishment of program. In particular, furnish explanation as to why the required degree of security protection is not obtainable under regular safeguarding requirements for classified information.

(e) Estimated number of persons to be granted Special Access.

Number of such persons in Reporting Department or Agency	------
Number of such persons in other DoD Components	------
Number of such persons in industrial facilities	------
DoD Departments or Agencies	------
Number of such persons in non-	
Total	------

(f) Attach a copy of all instructions pertaining to the program security requirements including, but not limited to, those governing access to program information.

§ 159.1200–5 Notification.

(a) The Secretaries of the Military Departments, and the ASD(C) for other DoD Components shall in those programs affecting contractors, make the programs applicable by incorporation in the contract or other legally binding instrument and provide copies to the cognizant DSA security office.

(b) To the extent required by DDCAS/DSA to execute his security responsibilities with respect to special access programs under his security cognizance, each official specified above shall provide for the granting of authorization for access to those programs by DDCAS/DSA personnel.

Subpart—Program Management

EXECUTIVE OFFICE OF THE PRESIDENT

§ 159.1300 National Security Council (NSC).

The National Security Council is charged under Executive Order 11652 (§ 159.100(b)) with monitoring implementation of the Order. The NSC is also charged with issuing and maintaining Presidential directives to implement the Order (§ 159.100(c)).

§ 159.1300–1 Interagency Classification Review Committee (ICRC).

To assist the National Security Council, an Interagency Classification Review Committee has been established.

(a) *Composition.* The Chairman of the ICRC is designated by the President. Its membership is comprised of representatives of the Departments of Defense, State, and Justice, the Atomic Energy Commission, the Central Intelligence Agency and the National Security Council Staff. The General Counsel is the Department of Defense representative. Representatives of other Departments in the Executive Branch may be invited to meet with the Committee on matters of particular interest to those Departments.

(b) *Meetings and staff.* The ICRC meets regularly, but no less frequently than monthly. The Chairman appoints an Executive Director and permanent staff.

(c) *Functions.* The ICRC is charged with the following functions:

(1) Oversee Department actions to ensure compliance with the provisions of the Order and the implementing NSC directives with particular emphasis on Departmental programs established to implement the Order and such directives.

(2) Receive, consider and take action on suggestions and complaints from persons within or without the Government with respect to the general administration of the Order including appeals from denials by Departmental Committees or the Archivist of declassification requests. In consultation with the affected Department or Departments, the Committee will assure that appropriate action is taken on such suggestions and complaints.

(3) Seek to develop means to (i) prevent overclassification, (ii) ensure prompt declassification in accord with the provisions of the Order, (iii) facilitate access to declassified material and (iv) eliminate unauthorized disclosure of classified information.

(d) *Information requests.* The Committee Chairman is authorized to request information or material concerning the Department of Defense, including its components, and needed by the Committee in carrying out its functions.

DEPARTMENT OF DEFENSE

§ 159.1301 Management responsibility.

The Assistant Secretary of Defense (Comptroller) is the senior DoD official having authority and responsibility to ensure effective and uniform compliance with and implementation of Executive Order 11652 and NSC implementing directives (§§ 159.100(b) and (c)). Under the Assistant Secretary of Defense (Comptroller), the Deputy Assistant Secretary of Defense (Security Policy) is responsible for the development of policies, standards, criteria and procedures governing the Department of Defense Information Security Program and for its effective and uniform implementation.

§ 159.1301–1 DoD Classification Review Committee (DCRC).

The Department of Defense Classification Review Committee (DCRC) is comprised of the Assistant Secretary of Defense (Comptroller), Chairman, the Assistant Secretary of Defense (Public Affairs), and the General Counsel of the Department of Defense, as permanent members. Representatives from DoD components may be invited by the Chairman to meet with the Committee on matters of particular interest to those components. Its functions are:

(a) Receive, consider and take action upon all suggestions and complaints with respect to the administration of the Department of Defense Information Security Program, including, without limitation, those regarding overclassification, unnecessary classification, failure to declassify, or delay in declassifying, not otherwise resolved at the component level.

(b) Review appeals from denials of requests for records under the mandatory review provisions of E.O. 11652 and section 552 of Title 5, U.S.C. (Freedom of Information Act) when the denial is based on continued classification, the requested record is more than ten years old, and (1) the OSD, the OJCS, or a Defense Agency was responsible for the initial decision to deny the request; or (2) two or more DoD components have an interest in the matter and are in disagreement.

(c) Receive, consider and take action upon appeals from the Classification Review Committees of the Military Departments specified in § 159.1302–1.

(d) Recommend to the Secretary of Defense appropriate administrative action to correct abuse or violation of any provision of § 159.100 (b) or (c) of this regulation, including notification, warning letters, formal reprimand, and to the extent permitted by law, suspension without pay, forfeiture of pay, and removal.

§ 159.1301–2 DoD Information Security Advisory Board (DISAB).

To advise and assist the Assistant Secretary of Defense (Comptroller), there is established a DoD Information Security Advisory Board. The Board shall be comprised of the Deputy Assistant Secretary of Defense (Security Policy) Chairman, and senior representatives designated by the Secretaries of the Military Departments, the Chairman, Joint Chiefs of Staff, the Director, Defense Research and Engineering, the Assistant Secretary of Defense (Intelligence), the Assistant Secretary of Defense (Public Affairs), the General Counsel of the Department of Defense, and the Director, Defense Supply Agency, as permanent members. Representatives of other components may be invited by the Chairman to participate in matters of specific interest. The Board shall review and evaluate the effectiveness of the administration of the Program by DoD components, developing and recommending new or revised uniform policies, standards, criteria or procedures necessary to meet changing conditions or to correct deficiencies in the Program.

DoD COMPONENTS

§ 159.1302 Overall program responsibility.

The head of each DoD component is responsible for the establishment and maintenance of an Information Security Program, with adequate funding and sufficient experienced staff at all levels, designed to ensure effective compliance with the provisions of this regulation throughout his component.

§ 159.1302–1 Military departments.

The Secretary of each Military Department shall designate a senior official who shall be responsible for the effective compliance with and implementation of this regulation within his Department. Each such official shall also serve as chairman of a Classification Review Committee of

his Department which shall have authority and responsibility to perform functions for his Department similar to those described in § 159.1301–1.

§ 159.1302–2 Other components.

The head of each other DoD component shall designate a senior official who shall be responsible for the effective compliance with and implementation of this regulation within his component.

§ 159.1302–3 Program monitorship.

The senior officials designated under § 159.1302–1 and § 159.1302–2, are responsible within their respective jurisdictions for monitoring, inspecting and reporting on the status of administration of the DoD Information Security Program at all levels of activity under their cognizance.

§ 159.1302–4 Field program management.

Each activity throughout the DoD shall assign (as a sole, principal or additional duty, depending upon operational responsibilities as dictated by the level and quantity of classified information involved in operations) an official to serve as security manager for the activity. He shall be responsible for administration of an effective Information Security Program in that activity with particular emphasis on (a) the assignment of proper classifications; (b) effective prevention of unauthorized disclosures of classified information; (c) progressive downgrading and declassification; and (d) systematic reviews to eliminate by destruction, transfer or retirement all unneeded classified material on the fastest basis consistent with operational requirements. Security managers should have sufficient staff assistance and authority to carry out an effective program.

REPORTS REQUIREMENTS

§ 159.1303 Reports requirements.

In addition to the reports required by § 159.105–1 (classification authorities), the DoD and Military Department Classification Review Committees (§ 159.1301–1 and § 159.1302–1) shall submit through appropriate channels to the Senior DoD official named in § 159.1301 quarterly reports covering classification review requests, classification abuses and unauthorized disclosures. Such reports are covered by Reports Control Symbol DD–A(Q) 1183. In addition, the DoD and Military Department Classification Review Committees shall provide such other reports as the senior DoD official may require. No Reports Control Symbol is required for these latter reports pursuant to section III.E, DoD Directive 5000.19.

Subpart—Administrative and Judicial Action

§ 159.1400 Individual responsibility.

All personnel, civilian or military, of the Department of Defense are responsible individually for complying with the provisions of this regulation in all respects.

§ 159.1400–1 Administrative actions.

With the view of emphasizing the importance and necessity of carrying out both the letter and the spirit of Executive Order 11652, the implementing National Security Council directives, and this regulation, violations of these instruments shall be the subject of administrative action as follows:

(a) Repeated abuse by any person of the classification process, or repeated failure, neglect or disregard of established requirements with respect to safeguarding classified information or material, shall be grounds for adverse administrative action. Such action may include a warning notice, formal reprimand, suspension without pay or forfeiture of pay, or discharge as appropriate in the particular case, in accordance with applicable policies and procedures.

(b) Any person, regardless of office or level of employment, who is responsible for any unauthorized release or disclosure of classified information or material shall be notified that his action is in violation of the Executive Order, the implementing National Security Council directives, and this regulation, and, in addition, shall be subject to prompt and stringent action including, as appropriate in the particular case, a warning notice, formal reprimand, suspension without pay, forfeiture of pay, or discharge, in accordance with applicable policies and procedures.

§ 159.1400–2 Judicial action.

Any action resulting in unauthorized disclosure of classified information which constitutes a violation of the criminal statutes shall be the subject of a report processed in accordance with DoD Directive 5210.50, § 159.100(g) and DoD instruction 5200.22, § 159.100(f).

Subpart—List of Appendices for DoD Information Security Program Regulation

§ 159.1500 Appendix A—Original classification authorities (see § 159.105).

Part 1—*Top secret original classification authorities.* Under the provisions of Executive Order 11652, § 159.100(b), only the Secretary of Defense and the Secretaries of the Military Departments may designate officials to exercise Top Secret original classification authority. Designations may be made from the following groups of officials:

1. Senior principal deputies and assistants to the Secretaries.

2. Heads of major elements of the Department of Defense and their senior principal deputies and assistants.

Attached is a listing of officials designated by the Secretary of Defense to exercise Top Secret original classification authority.

Part 2—*Secret original classification authorities.* Secret original classification authority may be exercised by designated Top Secret original classification authorities and by such subordinate officials as are designated in writing by the Secretary of Defense, Secretaries of the Military Departments, or those other Top Secret classification authorities listed in this Appendix whose listing carries an asterisk. The authority to make designations of Secret classification authorities is vested in the incumbent of the position and in the individual designated in writing by the incumbent to act as designating official in the incumbent's absence. The exercise of this authority is personal to the official in whom it is vested, and shall not be delegated by him or used by anyone acting for him in his name. Each designation shall be in writing and personally signed by the designating official.

Part 3—*Confidential original classification authorities.* Confidential original classification authority may be exercised by officials designated to exercise Top Secret or Secret original classification authority and by such subordinate officials as they may designate in writing. Such designations shall be made in accordance with § 159.105 of the regulation.

TOP SECRET CLASSIFICATION AUTHORITIES

OFFICE, SECRETARY OF DEFENSE (23)

Secretary of Defense	(1)
*Deputy Secretary of Defense	(1)
*Director of Defense Research and Engineering	(1)
Principal Deputy Director	(1)
Assistant Director (Net Technical Assessment)	(1)
*Assistant Secretaries of Defense	(9)
*General Counsel of the Department of Defense	(1)
*Director of Defense Program Analysis & Evaluation	(1)
*Special Assistant and Assistant to the Secretary and Deputy Secretary of Defense	(2)
*Assistant to the Secretray of Defense (Atomic Energy)	(1)
Chairman, Military Liaison Committee (AEC)	(1)
Defense Advisor, U.S. Mission to NATO	(1)
Director, Weapons Systems Evaluation Group	(1)
Director, Joint Tactical Communications (TRI–TAC)	(1)

ORGANIZATION, JOINT CHIEFS OF STAFF (34)

*Chairman, Joint Chiefs of Staff	(1)
Assistant to the Chairman, Joint Chiefs of Staff	(1)
Director, Joint Staff	(1)
Secretary, Joint Staff	(1)
Director for Personnel, J–1	(1)
Director for Operations, J–3	(1)
Vice Director for Operations, J–3	(1)
Deputy Directors for Operations, J–3	(7)
Director for Logistics, J–4	(1)
Director for Plans and Policy, J–5	(1)
Vice Director	(1)
Deputy Director (Strategic)	(1)
Director for Communications-Electronics, J–6	(1)
JCS Representative for Strategic Arms Limitations Talks	(1)
JCS Representative for Mutual and Balanced Force Reduction	(1)
JCS Representative, Law of the Sea	(1)
Chief, Studies, Analysis, and Gaming Agency	(1)
U.S. Representative to Military Committee, NATO	(1)
U.S. Representative to Permanent Military Deputies Group, CENTO (Chief, U.S. Element CENTO)	(1)
Chairman, U.S. Delegation, United Nations Military Staff Committee	(1)
Chairman, U.S. Delegation, Inter-American Defense Board	(1)
Chairman, U.S. Delegation, Joint Brazil-United States Defense Commission	(1)
Chairman, U.S. Delegation, Joint Brazil-United States Military Commission	(1)

Chairman, U.S. Section, Joint Mexico-United States Defense Commission (1)
Chairman, U.S. Section, Canada-United States Military Cooperation Committee (1)
Steering and Coordinating Member, Canada-U.S. Permanent Joint Board on Defense (1)
Chairman, U.S. Section, Canada-U.S. Regional Planning Commission (NATO) (1)
Commander-in-Chief, United Nations Command (1)

UNIFIED AND SPECIFIED COMMANDS (42)

United States European Command (EUCOM) (3)

*Commander-in-Chief (1)
Chief of Staff (1)
Deputy Commander (1)

United States Pacific Command (PACOM) (15)

*Commander-in-Chief (1)
Chief of Staff (1)
Deputy Chief of Staff (CINCPAC) (1)
Commander, U.S. Military Assistance Command, Thailand (1)
Commander, U.S. Support Activities Group, Thailand (1)
Commander, U.S. Forces, Japan (1)
Chief, MAAG, China (1)
Chief, JUSMAG, Philippines (1)
Dep Chief, JUSMAG, Thailand (1)
Chief, Military Equipment Delivery Team, Cambodia (1)
Commander, U.S. Forces, Korea (1)
Chief, JUSMAG, Korea (1)
CINCPAC Representative, GUAM/TTPI (1)
CINCPAC Representative, Philippines (1)
Commander, US-Taiwan Defense Command (1)

Continental Air Defense (CONAD) (10)

*Commander-in-Chief (1)
Chief of Staff (1)
Commander-in-Chief, North American Defense Command (NORAD) (1)
Commanders, CONAD/NORAD Regions (Exc 22d) (6)
Deputy Commander, 22d NORAD Region (1)

Alaskan Command (ALCOM) (2)

*Commander-in-Chief (1)
Chief of Staff (1)

Southern Command (USSOUTHCOM) (2)

*Commander-in-Chief (1)
Chief of Staff (1)

Atlantic (LANTCOM) (2)

*Commander-in-Chief (1)
Chief of Staff (1)

Readiness Command (CINCRED) (2)

*Commander-in-Chief (1)
Deputy Commander (1)

Strategic Air Command (SAC) (6)

*Commander-in-Chief (1)
Vice Commander-in-Chief (1)
Chief of Staff (1)
Senior SAC X-Ray Representative (1)
Director, Strategic Target Planning (1)
Deputy Director (1)

DEFENSE AGENCIES (221)

Defense Advanced Research Projects Agency (DARPA) (2)

*Director (1)
Deputy Director (1)

Defense Civil Preparedness Agency (DCPA) (1)

*Director (1)

Defense Communications Agency (DCA) (7)

*Director (1)
Vice Director (1)
Chief of Staff (1)
Deputy Director, Plans and Programs (1)
Deputy Director, Systems Engineering (1)
Deputy Director, Operations (1)
Deputy Director, National Military Command Systems Technical Support (NMCSTS) (1)
Deputy Director, Military Satellite Communications System
Chief Scientist/Associate, Technology

Defense Contract Audit Agency (DCAA) (1)

*Director (1)

Defense Intelligence Agency (DIA) (99)

*Director (1)
Deputy Director (1)
Chief of Staff (1)
Deputy Directors (7)
Assistant Deputy Director for CI and Security (1)
Chief, Operations/Coordination Division (1)
Chief, Operational Intelligence Division (1)
Defense Attaches (86)

Defense Investigative Service (DIS) (2)

*Director (1)
Deputy Director (1)

Defense Mapping Agency (DMA) (9)

*Director (1)
Deputy Director (1)
Deputy Director, Management & Technology (1)
Deputy Director for Plans, Requirements and Technology (1)
Deputy Director for Programs, Production and Operations (1)
Director, DMA Topographic Center (1)
Director DMA Hydrographic Center (1)
Director, DMA Aerospace Center (1)
Director, Inter-American Geodetic Survey (1)

Defense Nuclear Agency (DNA) (4)

*Director (1)
Deputy Director, Operations and Administration (1)
Deputy Director, Science and Technology (1)
Commander, Field Command (1)

Defense Security Assistance Agency (DSAA) (2)

*Director (1)
Deputy Director (1)

Defense Supply Agency (DSA) (1)

*Director (1)

National Security Agency (NSA) (93)

*Director, NSA/Chief, CSS (1)
Deputy Director, NSA (1)
Executive for Staff Services (1)
Assistant Directors (4)
Deputy Assistant Directors (5)
Deputy Directors (4)
Assistant Deputy Directors (4)
Inspector General (1)
Chief, Policy Coordination (1)
Chiefs, Policy Coordination Divisions (2)
Deputy Chief, Intelligence Community Affairs (1)
Commandant, National Cryptologic School/Training Director, CSS (1)
Chiefs of SIGINT Operations Groups (6)
Executive, SIGINT Operations (1)
Chiefs of Offices, National Cryptologic School (4)
Chiefs of Offices, Field Management and Evaluation Organization (3)
Chiefs of Offices, Intallations & Logistics Organization (5)
Chiefs of Offices, Plans and Resources Organization (4)
Chiefs of Offices, Research and Engineering Organization (4)
Chiefs of Offices, Communications Security Organization (5)
Chiefs of Offices, Telecommunications Organization (3)
Chief of Military Personnel (1)
Chief of Civilian Personnel (1)
Chief of Security (1)
Chiefs of NSA/CSS Field Elements (14)
Chiefs of Liaison Offices (4)
NSA/CSS Representatives (4)
NSA Classification Advisory Officers (7)

DEPARTMENT OF THE ARMY (56)

Secretary of the Army (1)
Under Secretary and Assistant Secretaries of the Army (5)
General Counsel, Office of the Secretary of the Army (1)
*Chief & Vice Chief of Staff (2)
Assistant Vice Chief of Staff (1)
Secretary of the General Staff (1)
Deputy Chiefs of Staff (3)
Assistant Vice Chief of Staff (1)
Chief of Research and Development (1)
Chief, Office of Reserve Components (1)
Chief, National Guard Bureau (1)
Chief, Army Reserve (1)
Chief of Engineers (1)
Comptroller of the Army (1)
The Inspector General (1)
Training and Doctrine Command (1)
First United States Army (1)
U.S. Army Forces Command (1)
Fifth United States Army (1)
Sixth United States Army (1)
U.S. Army Military District of Washington (1)

Army Components of Unified Commands	(7)
Eighth Army	(1)
U.S. Army, Japan	(1)
U.S. Army Base Command, Okinawa	(1)
U.S. Army Theater Support Command, Europe	(1)
U.S. Army Southern European Task Force	(1)
U.S. Army Materiel Command	(1)
U.S. Army Aviation Systems Command	(1)
U.S. Army Electronics Command	(1)
U.S. Army Missile Command	(1)
U.S. Army Troop Support	(1)
U.S. Armament Command	(1)
U.S. Army Tank-Automotive Command	(1)
U.S. Army Test and Evaluation Command	(1)
U.S. Army Strategic Communications Command	(1)
U.S. Army Security Agency	(1)
U.S. Army Intelligence Command	(1)
SAFEGUARD System Manager	(1)
Commanding General, SAFEGUARD System Command	(1)
Commander, SAFEGUARD System Evaluation Agency	(1)

DEPARTMENT OF THE NAVY
(99)

Secretary of the Navy	(1)
Under Secretary of the Navy	(1)
Assistant Secretary of the Navy (Installations & Logistics	(1)
Assistant Secretary of the Navy (Research and Development)	(1)
Assistant Secretary of the Navy (Manpower and Reserve Affairs)	(1)
Assistant Secretary of the Navy (Financial Management)	(1)
General Counsel of the Navy	(1)
Chief of Naval Research	(1)
Director, Naval Research Laboratory	(1)
Chief and Vice Chief of Naval Operations	(2)
Assistant Vice Chief of Naval Operations/Director of Naval Administration (Op-09B)	(1)
Director of Naval History (Op-09BH)	(1)
Naval Inspector General (Op-008)	(1)
Director, Navy Program Planning (Op-090)	(1)
Director, General Planning and Programming Division (Op-90)	(1)
Director, Systems Analysis Division (Op-96)	(1)
Director, ASW and Tactical Electromagnetic Programs (Op-095)	(1)
Diector, Command Support Programs (Op-094)	(1)
Director, Naval Telecommunications Division (Op-941)/Commander Naval Telecommunications Command	(1)
*Director of Naval Intelligence (Op-009)/Commander, Naval Intelligence Command	(1)
Director, Security of Military Information Division (Op-009D)	(1)
Director, Fleet Operations, Readiness, Navy Command Support Division (Op-943)	(1)
Director, Signals Exploitation and Security Division (Op-944)/Commander, Naval Security Group Command	(1)
Director, Meteorology Division (Op-945)/Commander Naval Weather Service Command	(1)
Director, Reconnaissance, Ocean Surveillance, Command & Control Support Division (Op-947)	(1)
Director, Research, Development, Test & Evaluation (Op-098)	(1)
Director, Atomic Energy Division (Op-985)	(1)
Deputy Chief of Naval Operations (Manpower) (Op-01)/Chief of Naval Personnel	(1)
Deputy Chief of Naval Operations (Submarine Warfare) (Op-02)	(1)
Director, Deep Submergence Systems Division and Deep Submergence Program Coordinator (Op-23)	(1)
Deputy Chief of Naval Operations (Surface Warfare) (Op-03)	(1)
Director, Ship Acquisition and Improvement Division (Op-097)	(1)
Deputy Chief of Naval Operations (Logistics) (Op-04)	(1)
Director, Logistics Plans Division (Op-40)	(1)
Deputy Chief of Naval Operations (Air Warfare) (Op-05)	(1)
Deputy Chief of Naval Operations (Plans & Policy) (Op-06)	(1)
Director, Strategic Plans, Policy and Nuclear Systems Division (Op-60)	(1)
Director, Politico-Military Policy Division (Op-61)	(1)
Director, Security Assistance Division (Op-63)	(1)
Commander Military Sealift Command	(1)
Chief and Vice Chief of Naval Material	(2)
Director of Navy Laboratories	(1)
Commander, Naval Air Systems Command	(1)
Commander, Naval Electronics Systems Command	(1)
Commander, Naval Facilities Engineering Command	(1)
Commander, Naval Ordnance Systems Command	(1)
Commander, Naval Ship Systems Command	(1)
Commander, Naval Supply Systems Command	(1)
Commander, Naval Weapons Center, China Lake, California	(1)
Commanders in Chief: U.S. Pacific Fleet, U.S. Atlantic Fleet, U.S. Naval Forces Europe	(3)
Fleet Commanders: Second, Third, Sixth and Seventh	(4)
Commanders, U.S. Naval Forces: Azores, Iceland, Japan, Korea, Marianas, Philippines	(6)
Senior U.S. Naval Officer Mediterranean	(1)
Commander, Middle East Force	(1)
Commander, U.S. Naval Forces, Southern Command	(1)
Commander, South Atlantic Force, U.S. Atlantic Fleet	(1)
Commander, Key West Force	(1)
U.S. Commander, Eastern Atlantic	(1)
Oceanographer of the Navy	(1)
Commander, U.S. Taiwan Defense Command	(1)
Commander,. U.S. Antisubmarine Warfare Force, U.S. Sixth Fleet	(1)
Commander, Naval Air Force: U.S. Atlantic Fleet, U.S. Pacific Fleet	(2)
Commander, Amphibious Force: U.S. Atlantic Fleet, U.S. Pacific Fleet	(2)
Commander, Cruiser-Destroyer Force: U.S. Atlantic Fleet, U.S. Pacific Fleet	(2)
Commander, Submarine Force: U.S. Atlantic Fleet, U.S. Pacific Fleet	(2)
Commander, Service Force: U.S. Atlantic Fleet, U.S. Pacific Fleet	(2)
Commander, Mine Warfare Force, U.S. Navy	(1)
Commander, Operational Test and Evaluation Force	(1)
Commandant and Assistant Commandant of the Marine Corp	(2)
Chief of Staff Marine Corps	(1)
Deputy Chiefs of Staff Marine Corps: Manpower; Plans and Operations; Research Development and Studies; Aviation; Requirements and Programs; Installations and Logistics	(6)
Director of Plans, Programs and Management for Installations and Logistics	(1)
Director of Intelligence	(1)
Commanding Generals: Fleet Marine Force, Atlantic; Fleet Marine Force, Pacific	(2)

DEPARTMENT OF THE AIR FORCE
(114)

Secretary	(1)
*Under Secretary	(1)
*Assistant Secretaries	(4)
General Counsel	(1)
Director of Space Systems	(1)
*Chief of Staff	(1)
Vice Chief of Staff	(1)
Assistant Vice Chief of Staff	(1)
Deputy Chiefs of Staff:	
Personnel	(1)
Programs and Resources	(1)
Plans and Operations	(1)
Assistant, Plans & Operations	(1)
Research and Development	(1)
Assistant, Research & Development	(1)
Systems and Logistics	(1)
Assistant, Systems & Logistics	(1)
*The Inspector General	(1)
Assistant Chiefs of Staff:	
Intelligence	(1)
Studies and Analysis	(1)
Aerospace Defense Command:	
Commander and Vice Commander	(2)
Chief of Staff	(1)
Commanders, Air Divisions	(6)
Commander, 14 Aerospace Force	(1)
Commander, Air Defense Weapons Center	(1)
U.S. Air Forces in Europe:	
Commander-in-Chief, Vice Commander-in-Chief	(2)
Chief of Staff	(1)
Commanders, Air Forces (3, 16, 17)	(3)
U.S. Air Force Southern Command:	
Commander and Vice Commander	(2)
Chief of Staff	(1)
Commander, 24th Special Operations Group	(1)
Pacific Air Force:	
Commander-in-Chief	(1)
Vice Commander-in-Chief	(1)
Chief of Staff	(1)
Commanders, Air Forces (5, 7, 13)	(3)
Commander, 326 Air Division	(1)
Commander, 15th Air Base Wing	(1)
Alaskan Air Command:	
Commander and Vice Commander	(2)
Chief of Staff	(1)
Military Airlift Command:	
Commander and Vice Commander	(2)
Tactical Air Command:	
Commander and Vice Commander	(2)
Chief of Staff	(1)
Commanders, Air Forces (9, 12)	(2)
Commander, USAF Special Operations Force	(1)
Commander, Tactical Air Warfare Center	(1)
Commander, Tactical Fighter Weapons Center	(1)

- Air Force Systems Command:
  - Commander and Vice Commander ---------- (2)
  - Chief of Staff ---------- (1)
  - Commanders:
    - Air Force Special Weapons Center ---------- (1)
      - Vice Commander ---------- (1)
    - Foreign Technology Division ---------- (1)
      - Vice Commander ---------- (1)
    - Rome Air Development Center ---------- (1)
    - Armament Test Center ---------- (1)
    - Space and Missile Systems Organization ---------- (1)
      - Vice Commander ---------- (1)
      - Deputy for Satellite Programs ---------- (1)
    - Electronic Systems Division ---------- (1)
      - Vice Commander ---------- (1)
    - Aeronautical Systems Division ---------- (1)
      - Vice Commander ---------- (1)
- Air Forces Ssystems Command—Con.
  - Commanders
    - Air Force Avionics Laboratory (1)
    - Aero Propulsion Laboratory ---------- (1)
    - Flight Dynamics Laboratory ---------- (1)
    - Materiel Laboratory ---------- (1)
    - Aerospace Research Laboratory ---------- (1)
    - Weapons Laboratory ---------- (1)
    - Arnold Engineering Development Center ---------- (1)
    - Cambridge Research Laboratory ---------- (1)
  - Commander, Air Force Reserve ---------- (1)
- Air Force Communications Service:
  - Commander and Vice Commander ---------- (2)
  - Commanders, Communications Areas:
    - European ---------- (1)
    - Pacific ---------- (1)
    - Tactical ---------- (1)
    - Southern ---------- (1)
    - Northern ---------- (1)
- Air Force Communications Service—Con.
  - Commander, 1931 Communications Group ---------- (1)
  - Commander, 1978 Communications Group ---------- (1)
  - Commander, 3 Mobile Communications Group ---------- (1)
- Air Force Logistics Command:
  - Commander and Vice Commander ---------- (2)
  - Chief of Staff ---------- (1)
  - Commanders, Air Materiel Areas (Oklahoma, Ogden, San Antonio, Sacramento, Warner Robins) ---------- (5)
- U.S. Air Force Security Service:
  - Commander and Vice Commander ---------- (2)
- Strategic Air Command (SAC):
  - Commanders, Air Forces (2, 8, 15) ---------- (3)
  - Commander, 1st Strategic Aerospace Division ---------- (1)
  - Commander, 544 Aerospace Reconnaissance Technical Wing ---------- (1)

§ 159.1500–1 APPENDIX B—Equivalent foreign security classifications. (See §§ 159.401–8 and 159.1100–1)

Country	TOP SECRET	SECRET	CONFIDENTIAL	
Argentina	ESTRICTAMENTE SECRETO	SECRETO	CONFIDENCIAL	
Australia	TOP SECRET	SECRET	CONFIDENTIAL	
Austria	STRENG GEHEIM	GEHEIM	VERSCHLUSS	NUR FÜR DEN DIENSTGEBRAUCH
Belgium (French)	TRES SECRET	SECRET	CONFIDENTIEL	DIFFUSION RESTREINTE
(Flemish)	ZEER GEHEIM	GEHEIM	VERTROUWELIJK	BEPERTKE VERSPREIDING
Bolivia	SUPERSECRETO or MUY SECRETO	SECRETO	CONFIDENCIAL	
Brazil	ULTRA SECRETO	SECRETO	CONFIDENCIAL	RESERVADO
Cambodia	TRES SECRET	SECRET	SECRET/CONFIDENTIEL	
Canada	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Chile	SECRETO	SECRETO	RESERVADO	RESERVADO
Columbia (two systems)	MUY SECRETO ESTRICTAMENTE RESERVADO	SECRETO SECRETO	CONFIDENCIAL RESERVADO	CONFIDENCIAL RESERVADO
Costa Rica	ALTO SECRETO	SECRETO	CONFIDENCIAL	
Denmark	YDERST HEMMELIGT	HEMMELIGT	FORTROLIGT	TIL TJENESTE BRUG
Ecuador	SECRETISIMO	SECRETO	CONFIDENCIAL	RESERVADO

Country	TOP SECRET	SECRET	CONFIDENTIAL	
El Salvador	SECRETISIMO	SECRETO	CONFIDENCIAL	RESERVADO
Ethiopia	YEMIAZ BIRTOU MISTIR	MISTIR	KILKIL	
Finland	ERITTAIN SALAINEN	SALAINEN	HENKILÖKOHTAINEN	VAINVIRKAPAL-VELUKSISSAKÄ-TETTÄVÄKSI
France	TRES SECRET*	SECRET DEFENSE	CONFIDENTIEL DEFENSE	DIFFUSION RESTREINTE
Germany	STRENG GEHEIM	GEHEIM	VERTRAULICH	VS-NUR FÜR DEN DIENSTGEBRAUCH
Greece	ΕΤΝΑ ΑΚΡΩΣ ΑΠΟΡΡΗΤΟΝ	ΑΚΡΩΣ ΑΠΟΡΡΗΤΟΝ	ΑΠΟΡΡΗΤΟΝ ΕΜΠΙΣΤΕΥΤΙΚΟΝ	ΠΕΡΙΟΡΙΣΜΕΝΗΣ ΧΡΗΣΕΩΣ
Guatemala	ALTO SECRETO	SECRETO	CONFIDENCIAL	RESERVADO
Haiti		SECRET	CONFIDENTIAL	
Honduras	SUPER SCERETO	SECRETO	CONFIDENCIAL	RESERVADO
Hong Kong	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Hungary	SZIGORÚAN TITKOS	TITKOS	BIZALMAS	
India	TOP SECRET	SECRET CONFIDENTIAL	CONFIDENTIAL	RESTRICTED
Indonesia	SANGAT RAHASIA	RAHASIA	KEPERT JAJAAN	TERBATAS
Iran	BEKOLI SERRI بکلی سری	SERRI سری	KHEILI MAHRAMANEH خیلی محرمانه	MAHRAMANEH محرمانه
Iraq	سري بالقوة (Absolutely secret)	سري (Secret)	مكتوم	محدود (Limited)

Country	TOP SECRET	SECRET	CONFIDENTIAL	
Ireland Gaelic	TOP SECRET AN-SICREIDEACH	SECRET SICREIDEACH	CONFIDENTIAL RUNDA	RESTRICTED SRIANTA
Israel	SODI BEYOTER סודי ביותר	SODI סודי	SHAMUR שמור	MUGBAL סוגבל
Italy	SEGRETISSIMO	SEGRETO	RISERVATISSIMO	RISERVATO
Japan	KIMITSU 機密	GOKUHI 極密	HI 秘	TORIATSUKAICHUI 取扱注意 BUGAIHI部外秘
Jordan	مكتوم جدًا	سري	مكتوم	محدود
Korea	1급 비밀 ILKUP PIMIL	2급 비밀 IKUP PIMIL	3급 비밀 SAM KUP PIMIL	
Laos	TRES SECRET	SECRET	SECRET/CONFIDENTIEL	DIFFUSION RESTREINTE
Lebanon	TRES SECRET	SECRET	CONFIDENTIEL	
Mexico	SECRETO	SECRETO	CONFIDENCIAL	
Netherlands	ZEER GEHEIM	GEHEIM	CONFIDENTIEEL or VERTROUWELIJK	DIENSTGEHEIM
New Zealand	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Nicaragua	ALTO SECRETO	SECRETO	CONFIDENCIAL	RESERVADO
Norway	STRENGT HEMMELIG	HEMMELIG	KONFIDENSIELT ~~PORTROLIG~~	
Pakistan	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Paraguay	ALTO SECRETO	SECRETO	CONFIDENCIAL	RESERVADO

Country	TOP SECRET	SECRET	CONFIDENTIAL	
Peru	ESTRICTAMENTE SECRETO	SECRETO	RESERVADO	CONFIDENCIAL
Philippines	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Portugal	MUITO SECRETO	SECRETO	CONFIDENCIAL	RESERVADO
Spain	MAXIMO SECRETO	SECRETO	CONFIDENCIAL	DIFFUSION LIMITADA
Sweden (Red Borders)	HEMLIG	HEMLIG	HEMLIG	
Switzerland	(Three languages. TOP SECRET has a registration number to distinguish from SECRET and CONFIDENTIAL.)			
French	SECRET	SECRET	SECRET	RESERVE A L'USAGE EXCLUSIVE DU SERVICE
German	STRENG GEHEIM	GEHEIM	VERTRAULICH	NUR FÜR DIENSTLICHEN GEBRAUCH
Italian	SEGRETO	SEGRETO	SEGRETO	AD ESCLUSIVO USO DI SERVIZIO
Taiwan	絕對機密	極機密	機密	密
Thailand	LUB TI SOOD ลับที่สุด	LUB MAAK ลับมาก	LUB ลับ	POK PID ปกปิด
Turkey	ÇOK GİZLİ	GİZLİ	ÖZEL	HIZMETE ÖZEL
Union of South Africa				
English	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Afrikaans	UITERS GEHEIM	GEHEIM	VERTROULIK	BEPERK
United Arab Republic (Egypt)	سري بالقوة TOP SECRET	سري جدا VERY SECRET	سري SECRET	محصور OFFICIAL

Country	TOP SECRET	SECRET	CONFIDENTIAL	
United Kingdom	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Uruguay	SECRETO	SECRETO	CONFIDENCIAL	RESERVADO
USSR	СОВЕРШЕННО СЕКРЕТНО	СЕКРЕТНО	НЕ ПОДЛЕЖАЩИЙ ОГЛАШЕНИЮ	ДЛЯ СЛУЖЕБНОГО ПОЛЬЗОВАНИЯ
Viet Nam				
French	TRES SECRET	SECRET	CONFIDENTIEL	CONFIDENTIEL
Vietnamese	TỐI-MẬT	MẬT	KIN	TU MẬT

NOTE: In all instances foreign security classification systems are not exactly parallel to the United States system and exact equivalent classifications cannot be stated. The classifications given above represent the nearest comparable designations which are used to signify degrees of protection and control similar to those prescribed for the equivalent United States classifications.

§ 159.1500–2 Appendix C—General Accounting Office officials authorized to certify security clearances (see § 159.700–6(c)).

The Comptroller General, his Deputy, and Assistants
The General Counsel and Deputy General Counsel
The Director and Deputy Director, Office of Personnel Management
The Director and Deputy Director, Office of Policy
The Directors, Deputy Directors, Associate Directors, and Assistant Directors of the following Divisions:
- General Government Resources and Economic Development
- Resources and Economic Development
- Manpower and Welfare
- International
- International Division Overseas Offices
  - Director European Branch
    Frankfurt, Germany
  - Director Far East Branch
    Honolulu, Hawaii
  - Manager, Sub Office
    Bangkok, Thailand
- Transportation and Claims
- Procurement and Systems Acquisition
- Federal Personnel and Compensation
- Logistics and Communications
- Financial and General Management Studies

Regional Managers:
- Atlanta, Georgia
- Boston, Massachusetts
- Chicago, Illinois
- Cincinnati, Ohio
- Dallas, Texas
- Denver, Colorado
- Detroit, Michigan
- Kansas City, Missouri
- Los Angeles, California
- New York, New York
- Norfolk, Virginia
- Philadelphia, Pennsylvania
- San Francisco, California
- Seattle, Washington
- Washington, D.C.
- (Falls Church, Virginia)

§ 159.1500–3 Appendix D—Instructions governing use of code words, nicknames and exercise terms (see § 159.701–10.

1. *Definitions—a. Using Component.*—The DoD component to which a code word is allocated for use, and which assigns to the word a classified meaning, or which originates nicknames and exercise terms using the procedure established by the Joint Chiefs of Staff.

b. Code word.—Word selected from those listed in Joint Army, Navy, Air Force Publication (JANAP) 299 and subsequent volumes, and assigned a classified meaning by appropriate authority to insure proper security concerning intentions, and to safeguard information pertaining to actual, real world military plans or operations classified as Confidential or higher. A code word shall not be assigned to test, drill or exercise activities. A code word is placed in one of three categories:

(1) *Available.* Allocated to the using component. Available code words *individually* will be unclassified until placed in the active category.

(2) *Active.* Assigned a classified meaning and current.

(3) *Cancelled.* Formerly active, but discontinued due to compromise, suspected compromise, cessation or completion of the operation to which the code word pertained. Cancelled code words *individually* will be unclassified and remain so until returned to the active category.

c. Nickname. A combination of two separate unclassified words which is assigned an unclassified meaning and is employed only for unclassified administrative, morale, or public information purposes.

d. Exercise term. A combination of two words normally unclassified used exclusively to designate a test, drill or exercise. An exercise term is employed to preclude the possibility of confusing exercise directions with actual operations directives.

2. *Policy and procedure—a. Code words.* The Joint Chiefs of Staff are responsible for allocating words or blocks of code words from JANAP 299 to DoD components. DoD components may request allocation of such code words as required and may reallocate available code words within their organizations, in accordance with individual policies and procedure, subject to applicable rules set forth herein.

(1) A permanent record of all code words shall be maintained by the Joint Chiefs Staff.

(2) The using component shall account for available code words and maintain a record of each active code word. Upon being cancelled, the using component shall maintain the record for two years; thence the record of each code word may be disposed of in accordance with current practices, and the code word returned to the available inventory.

b. Nicknames. (1) Nicknames may be assigned to actual, real world events, projects, movement of forces, or other nonexercise activities involving elements of information of any classification category, but the nickname, the description or meaning it represents, and the relationship of the nickname and its meaning must be unclassified. A nickname is not designed to achieve a security objective.

(2) Nicknames, improperly selected, can be counterproductive. A nickname must be chosen with sufficient care to insure that it does not:

(*a*) Express a degree of bellicosity inconsistent with traditional American ideals or current foreign policy;

(*b*) Convey connotations offensive to good taste or derogatory to a particular group, sect, or creed; or,

(*c*) Convey connotations offensive to our allies or other Free World Nations.

(3) The following shall not be used as nicknames:

(*a*) Any two-word combination voice call sign found in JANAP 119 or Allied Communications Publication (ACP) 119. (However, single words in JANAP 119 or ACP 119 may be used as part of a nickname if the first word of the nickname does not appear in JANAP 299 and subsequent volumes.)

(*b*) Combination of words including word "project," "exercise," or "operation."

(*c*) Words which may be used correctly either as a single word or as two words, such as "moonlight."

(*d*) Exotic words, trite expressions, or well known commercial trademarks.

(4) The Joint Chiefs of Staff shall:

(*a*) Establish a procedure by which nicknames may be authorized for use by DoD components.

(*b*) Prescribe a method for the using components to report nicknames used.

(5) The Heads of DoD components shall:

(*a*) Establish controls within their organizations for the assignment of nicknames authorized under subparagraph (4) (a) above.

(*b*) Under the procedures established, advise the Joint Chiefs of nicknames as they are assigned.

c. Exercise term. (1) Exercise terms may be assigned only to tests, drills or exercises for the purpose of emphasizing that the event is a test, drill or exercise and not an actual real world operation. The exercise term, the description or meaning it represents, and the relationship of the exercise term and its meaning can be classified or unclassified: A classified exercise term is designed to simulate actual use of DoD code words and must be employed using identical security procedures throughout the planning, preparation and execution of the test, drill or exercise to insure realism.

(2) Selection of exercise terms will follow the same guidance as contained in paragraphs 2.b.(2) and (3) above.

(3) The Joint Chiefs of Staffs shall:

(*a*) Establish a procedure by which exercise terms may be authorized for use by DoD components.

(*b*) Prescribe a method for using components to report exercise terms used.

(4) The heads of DoD components shall:

(*a*) Establish controls within their organizations for the assignment of exercise terms authorized under subparagraph (3) above.

(*b*) Under the procedures established, advise the Joint Chiefs of Staff of exercise terms as they are assigned.

3. *Assignment of classified meanings to code words. a.* The DoD component responsible for the development of a plan or the execution of an operation shall be responsible for determining whether to assign a code word.

b. Code words shall be activated for the following purposes only:

(1) To designate a classified military plan or operation;

(2) To designate classified geographic locations in conjunction with plans or operations referred to in (1) above; or,

(3) To conceal intentions in discussions and messages or other documents pertaining to plans, operations, or geographic locations referred to in (1) and (2) above.

c. The using component shall assign to a code word a specific meaning classified Top Secret, Secret, or Confidential, commensurate with military security requirements. Code words shall not be used to cover unclassified meanings. The assigned meaning need not in all cases be classified as high as the classification assigned to the plan or operation as a whole.

d. Code words shall be selected by each using component in such manner that the word used does not suggest the nature of its meaning.

e. A code word shall not be used repeatedly for similar purposes; i.e., if the initial phase of an operation is designated "Meaning," succeeding phases should not be designated "Meaning II" and "Meaning III," but should have different code words.

f. Each DoD component shall establish policies and procedures for the control and assignment of classified meanings to code words, subject to applicable rules set forth herein.

4. *Notice of assignment, dissemination, and cancellation of code words and meanings. a.* The using component shall promptly notify the Joint Chiefs of Staff when a code word is made active, indicating the word, and its classification. Similar notice shall be made when any changes occur, such as the substitution of a new word for one previously placed in use.

b. The using component is responsible for further dissemination of active code words and meanings to all concerned activities, to include classification of each.

c. The using component is responsible for notifying the Joint Chiefs of Staff of cancelled code words. This cancellation report is considered final action, and no further reporting or accounting of the status of the cancelled code word will be required.

5. *Classification and downgrading instructions. a.* During the development of a plan, or the planning of an operation by the headquarters of the using component, the code word and its meaning shall have the same classification. When dissemination of the plan to other DoD components or to subordinate echelons of the using component is required, the using component may downgrade the code words assigned below the classification assigned to their meanings in order to facilitate additional planning implementation, and execution by such other components or echelons. To facilitate this planning code words shall not be downgraded below Confidential.

b. A code word which is replaced by another code word due to a compromise or suspected compromise, or for any other reason, shall be cancelled, and classified Confidential for a period of two years, after which the code word will become Unclassified.

c. When a plan or operation is discontinued or completed, and is not replaced by a similar plan or operation but the meaning cannot be declassified, the code word assigned thereto shall be cancelled and classified Confidential for a period of two years, or until the meaning is declassified, whichever is sooner, after which the code word will become Unclassified.

d. In every case, whenever a code word is referred to in documents, the security classification of the code word shall be placed in parentheses immediately following the code word, i.e., "Label (C)."

e. When the meaning of a code word no longer requires a classification, the using component shall declassify the meaning and the code word and return the code word to the available inventory.

6. *Security practices. a.* The meaning of a code word may be used in a message or other document, together with the code word, only when it is essential to do so. Active code words may be used in correspondence or other documents forwarded to addressees who may or may not have knowledge of the meaning. If the context of a document contains detailed instructions or similar information which indicates the purpose or nature of the related meaning, the active code word shall not be used.

b. In handling correspondence pertaining to active code words, care shall be used to avoid bringing the code words and their meanings together. They should be handled in separate card files, catalogs, indexes, or lists, enveloped separately and dispatched at different times so they do not travel through mail or courier channels together.

c. Code words shall not be used for addresses, return addresses, shipping designators, file indicators, call signs, identification signals, or for other similar purposes.

7. All code words formerly categorized as "inactive" or "obsolete" shall be placed in the current cancelled category and classified Confidential. Unless otherwise restricted, all code words formerly categorized as "cancelled" or "available" shall be individually declassified. All records associated with such code words may be disposed of in accordance with current practices, provided such records have been retained at least two years after the code words were placed in the former categories of "inactive", "obsolete", or "cancelled".

§ 159.1500–4 Appendix E—Component implementations of DoD issuances.

NOTE: This section was filed as part of the original document.

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PART III

DEPARTMENT OF LABOR

Employment Standards Administration

■

COVERAGE UNDER THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

Proposed Guidelines

DEPARTMENT OF LABOR

Employment Standards Administration

[20 CFR Part 710]

COVERAGE UNDER THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

Proposed Guidelines

The Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424, 33 U.S.C. 901 et seq.) provides disability and death benefits for employees injured while working for private employers within the Federal maritime jurisdiction on the navigable waters of the United States. Pub. L. 92–576 (86 Stat. 1251), approved October 27, 1972, amended the Longshoremen's Act, in part, by substantially expanding the Act's coverage. Since the enactment of Pub. L. 92–576, the Employment Standards Administration has received numerous requests for information concerning the scope and coverage of the Act as amended.

Pursuant to section 39 of the Act (33 U.S.C. 939) it is proposed to amend Chapter VI of Title 20, Code of Federal Regulations, by adding thereto a new Part 710 which will provide general guidelines concerning coverage under the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) as amended by Pub. L. 92–576 (86 Stat. 1251).

Interested persons are invited to submit written comments, views, or arguments concerning the proposed Part 710 to the Office of Workmen's Compensation Programs, Employment Standards Administration, United States Department of Labor, Washington, D.C. 20211, on or before June 24, 1974. Thereafter the comments will be considered, including the feasibility of a public hearing, and Part 710 will be revised as appropriate and issued.

In addition, comments concerning the need for guidelines and the need, desirability, and feasibility of discussing other areas potentially subject to the Act will be welcome. If these comments are outside the scope of this proposal and are found to warrant further consideration, they will be published as a separate proposal in order that comments on them may be received and evaluated before issuance of the final document concerning them. This, of course, will not preclude the issuance of that portion of Part 710 herein published for comment and not affected by the second proposal.

The proposed Part 710 reads as follows:

PART 710—COVERAGE UNDER THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

Sec.

Authority: 5 U.S.C. 301; 33 U.S.C. 939; Pub. L. 92–576, 86 Stat. 1251; Secretary of Labor's Order 13–71, 36 FR 8755.

§ 710.1 Introductory statement.

(a) This part discusses the question of the coverage of the Longshoremen's and Harbor Workers' Compensation Act as amended. Prior to the 1972 amendments coverage was predicated on an injury to a person while he was upon the navigable waters of the United States and while he was working for an employer who had any employees engaged in maritime employment upon the navigable waters. The Longshoremen's and Harbor Workers' Compensation Act Amendments of 1972 (Pub. L. 92–576, 86 Stat. 1251) substantially expanded the Act's coverage by specifying a number of shoreside areas that are to be included as part of the navigable waters of the United States for purposes of this statute.

(b) There has been established in the Employment Standards Administration the Office of Workmen's Compensation Programs (OWCP) which is responsible for the administration of the Longshoremen's Act.

§ 710.2 Purpose of amendments.

(a) In amending the statute Congress determined that the receipt of compensation "should not depend on the fortuitous circumstance of whether the injury occurred on land or over water." [1] To assure a uniform compensation system in the covered industry Congress broadened the Act's coverage provisions by specifying a number of shoreside areas that are to be included as part of the navigable waters of the United States. Thus, section 3(a) was amended to define navigable waters to include "any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel." The purpose of the new, broader language is to guarantee protection to injured employees whether the injury occurs on the water or on land.

(b) Similar and conforming amendments were made in the definition of "employee" (section 2(3)) and "employer" (section 2(4)). As amended these definitions read as follows (changes are italicized):

Section 2(3). The term "employee" *means any persons engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harbor-worker including a ship repairman, shipbuilder, and ship-breaker, but such term* does not include a master or member of a crew of any vessel, or any person engaged by the master to load or unload or repair any small vessel under eighteen tons net.

Section 2(4). The term "employer" means an employer any of whose employees are employed in maritime employment, in whole or in part, upon the navigable waters of the United States (*including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel*).

(c) In amending the Longshoremen's Act Congress did not exclude any employees or areas previously covered nor did it delineate any new or different kinds of work for which compensation might be paid. The amended provisions specifically refer to those traditional types of work done by longshoremen, harbor workers, and other employees engaged in maritime employment. The statute does not contain any exemptions based on the number of employees employed by a particular employer or the size of the employer's business.

(d) This construction of the statute is supported by the legislative history of the amendments. In its report on the 1972 amendments the Senate Committee on Labor and Public Welfare set forth the difficulties encountered under the old Act and the rationale for the new expanded provisions when it wrote:

> * * * [C]overage of the present Act [the Longshoremen's Act prior to amendment] stops at the water's edge; injuries occurring on land are covered by State Workmen's Compensation laws. The result is a disparity in benefits payable for death or disability for the same type of injury depending on which side of the water's edge and in which State the accident occurs.
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> The Committee believes that the compensation payable to a longshoreman or a ship repairman or builder should not depend on the fortuitous circumstance of whether the injury occurred on land or over water.[2]

(e) The Committee then states its intent by citing a typical cargo situation:

> The intent of the Committee is to permit a uniform compensation system to apply to employees who would otherwise be covered for part of their activity. To take a typical example, cargo, whether in break bulk or containerized form, is typically unloaded from the ship and immediately transported to a storage or holding area on the pier, wharf, or terminal adjoining the navigable waters. The employees who perform this work would be covered under the bill for injuries sustained by them over navigable waters or on the adjoining land area. The Committee does not intend to cover employees who are not engaged in loading, unloading, repairing, or building a vessel, just because they are injured in an area adjoining navigable waters used for such activity. Thus, employees whose responsibility is only to pick up stored cargo for further trans-shipment would not be covered, nor would purely clerical employees whose jobs do not require them to participate in the loading or unloading of cargo. However, checkers, for example, who are directly involved in the loading or unloading functions are covered by the new amendment.[3]

[1] *Legislative History of the Longshoremen's and Harbor Workers' Compensation Act Amendments of 1972* (GPO, 1972) pp. 75, 216.

[2] *S. Rep. No. 92–1125*, 92d Cong., 2d Sess. (1972), pp. 12, 13 (*Legislative History, supra*, pp. 74, 75).

(e) The Committee then states its intent by citing a typical cargo situation:

[3] *S. Rep. No. 92–1125*, p. 13 (*Legislative History, supra*, p. 75); see also *Legislative History, supra*, p. 373.

(f) Similar language indicating the intent of Congress is contained in the report of the Committee on Education and Labor and in statements made during the House debates.[4] Thus, the legislative history establishes that any injury to a longshoreman or harbor worker related to his maritime employment is covered whether the injury occurs on the ship or other vessel, or on the shore.

§ 710.3 Shoreside coverage; criteria for determining.

(a) For an injury to be covered under the shoreside coverage provisions of the amended Longshoremen's Act, the employee must have been:

(1) Engaged in maritime employment, at the time of injury, by a maritime employer;

(2) Performing work in adjoining areas customarily used by an employer in loading, unloading, repairing, building, or breaking of a vessel.

(b) The implementation of the criteria, and in particular number (2), is not intended to limit the scope of coverage but rather to provide reasonable guidelines which will preclude the anomalies that arose under the statute prior to amendment.

(c) Both criteria—(1) status and (2) location and work function—must be met before coverage is obtained under the shoreside provisions of the amended Act.

§ 710.4 Shoreside coverage; longshoremen.

(a) The amended provisions of sections 2(3), 2(4), and 3(a) of the Act specifically refer to the traditional types of longshoring work that have always been covered by the Act—loading and unloading. The purpose of the new, broader language is to make clear that coverage under the amended Longshoremen's Act is available, not only for those persons performing work who were injured upon navigable waters of the United States, but also for those employees on an adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading or unloading a vessel.

(b) Based on procedures normally utilized in the maritime industry, the loading process may include certain terminal activities which are incidental to the placement of the cargo on the vessel. Conversely, the unloading process may also include certain terminal activities. Terminal activities to be included in coverage under the amended Act are employees engaged in loading or unloading break-bulk, containerized or Lash ships and lighters, or passenger ships. Activities which may be covered include employees engaged in stuffing and stripping of containers, employees working in and about marine railways, and other employees engaged in processing waterborne cargo.

(c) A covered employee is protected in the adjoining area while partaking of nourishment or refreshments, or while using the restroom facilities. Additionally, coverage may extend to supervisors, a major portion of whose duties requires them to be in the locale of covered activities. This may be true even though such persons are not directly involved in the covered activity.

§ 710.5 Shoreside coverage; shipbuilding, shiprepairing, and shipbreaking.

(a) Prior to the 1972 amendments coverage was determined primarily by the criterion of situs, e.g., the injury must have occurred upon the navigable waters of the United States (including any dry dock). The provisions of the Longshoremen's Act now extend to all shipyard work performed in adjoining areas customarily used by an employee in the physical construction, repair, or breaking (i.e., scrapping) of a vessel. The following types of work performed in areas adjoining the navigable waters are illustrative of kinds of activity which may be covered. The listing is not intended to be inclusive or exclusive but merely illustrative.

Outfitting piers
Graving docks or wet basins
Fabricating shops
Assembly tables
Pipe shops
Sheet metal shops
Electrical shops
Machine shops
Boiler shops
Panel shops
Blast and paint shops
Bracket shops
Pumping stations
Heat treatment buildings
Power substations
Tool repair facilities
Blacksmith shops
Roto blast shape shops
Pattern making (including lofting and layout by various methods such as optics and computers)
Warehouses (since most stock is ordered for specific vessels)

(b) The variable nature of construction, repair, and breaking work occasionally results in a facility or part thereof being used temporarily for special projects other than the usual maritime purposes of that facility. The sporadic, occasional use of such facilities and work force may not result in the loss of the maritime character of the work, and the Act's protection.

(c) Where the work or facility has no direct relationship to the actual construction, repair, or breaking of vessels, the coverage in this respect does not extend thereto. Examples of the types of work that may not be covered by the Act include:

Bookkeeping and accounting
Secretarial
Canteen and dispensary personnel
Industrial and public relations staff

(d) However, as earlier noted, the above listings are only illustrative and should not be considered as all encompassing or constituting immutable categorizations. The fact finder in each case must look to the facts and circumstances of that specific case in order to resolve the coverage question therein.

Signed at Washington, D.C., this 17th day of May 1974.

BERNARD E. DELURY,
Assistant Secretary for Employment Standards.

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[4] *H. Rep. No. 92-1441*, 92d Cong., 2d Sess. (1972), pp. 10-11 (*Legislative History, supra*, pp. 216-217); *Legislative History, supra*, p. 298.