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

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Title 3—The President

PROCLAMATION 4299

World Population Year, 1974

By the President of the United States of America

A Proclamation

One of the most pressing challenges in the last third of the twentieth century is to find ways of meeting the basic needs of the world's burgeoning population.

The causes of population growth are well known: death rates have been cut dramatically by welcome advances in medical science and health services while birth rates have not declined. As a result, according to estimates by the United Nations, some 80 million people will be added to the world's population this year and, if current trends continue, the world's total population of more than 3.8 billion could double by the first decade of the twenty-first century.

While the causes are clear, the solutions are not. Many tough choices will have to be made. The United States has no interest in imposing solutions upon other countries, but it does seek to help in a way which maintains our traditional respect for human freedom and dignity. The concern of all nations should remain with the human and physical environment of all of our fellow men and in seeking together ways in which mankind can discover new paths to partnership and progress.

As many of the developing countries have already discovered, it is urgent that acceptable solutions be found to this challenge. The United Nations has designated 1974 as World Population Year, and has called upon all governments and peoples to participate in its observance. In August of this year, the United Nations will convene a World Population Conference in Bucharest, Romania. The United States Government welcomes the declaration of World Population Year as an historic opportunity for all nations to study their own and world patterns of population growth and distribution.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate and proclaim the year 1974 as World Population Year in the United States. I call upon the Congress and officials of our Federal, State and local governments, edu-

cational institutions, religious bodies, private organizations, the information media, and the people of the United States generally to join this year in promoting a better understanding of the magnitude and consequences of world population growth and its relation to the quality of human life and in renewing our commitment to human dignity and social justice.

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

Richard Nixon

[FR Doc.74-16012 Filed 7-9-74;2:27; pm]

PROCLAMATION 4300

United Nations Day, 1974

By the President of the United States of America

A Proclamation

Americans are increasingly aware of the interdependence of all nations, large and small. We, our allies, and our adversaries are increasingly aware that many of the problems which affect us mutually can only be solved within a global context. It is with this fact in mind that we observe United Nations Day on October 24, 1974. The relevance and promise of this forum have been demonstrated repeatedly during the past year. True to its Charter, the United Nations has made historic contributions to the peace of the world.

We are all grateful to the Secretary General of the United Nations, to the Security Council, and to the United Nations Emergency Force for their part in halting the fighting in the Middle East, hopefully opening the way for a lasting settlement there.

We are grateful, too, for the United Nation's initiatives in fostering global economic and social progress. In the wake of the world energy crisis, the General Assembly and other United Nations bodies have turned their attentions to the problems of raw materials and development. The pioneering Law of the Sea Conference, in which all nations are represented, has convened to address the complex questions of regulating human activities on the high seas and protecting the marine environment. The United Nations is preparing now for Conferences later this year on World Food and on World Population. Both will address basic problems affecting the very quality of life on this planet.

By these endeavors, the United Nations manifests vividly its unique role as the one international instrument of action to which virtually all nations subscribe. For this role, for past accomplishments, and as a standard bearer for future world peace and prosperity, the United Nations deserves the appreciative recognition and continuing support of all Americans.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate Thursday, October 24, 1974, as United Nations Day. I urge the citizens of this Nation to observe that day with community programs that will promote understanding of and support for the United Nations and its affiliated agencies.

I have appointed Frank Cary to be United States National Chairman for United Nations Day and, through him, I call upon State and local officials to encourage citizens' groups and all agencies of communica-

tion to engage in appropriate observances of United Nations Day in cooperation with the United Nations Association of the United States of America and other interested organizations.

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

Richard Nixon

[FR Doc.74-16013 Filed 7-9-74;2:27 pm]

PROCLAMATION 4301

White Cane Safety Day, 1974

By the President of the United States of America

A Proclamation

More than a million Americans have severe visual disabilities. A few years ago most of these individuals would have been condemned to a life of dependence upon others. But a simple device—a White Cane—has given most of them mobility and with it, independence.

If those blessed with the gift of good eyesight do their part, those who are denied this blessing may still enjoy the independence they must have to work and support themselves and, not infrequently, their families. They can enjoy the independence they need to be fulltime partners in the life, liberty, and the pursuit of happiness which more fortunate Americans enjoy.

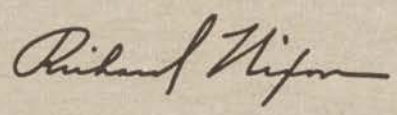
We should be constantly aware of the significance of the White Cane and, without hesitation, extend every courtesy to those who carry it. In this way we can respect the privacy and independence of our visually disabled while, at the same time, assuring that we do nothing to hinder their ability to shape and pursue a productive and fulfilling life.

In recognition of the significance of the White Cane, the Congress, by a joint resolution of October 6, 1964 (78 Stat. 1003), authorized the President to proclaim October 15 of each year as White Cane Safety Day.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim October 15, 1974, as White Cane Safety Day.

I urge all Americans to mark this occasion by giving greater consideration to the special needs of the visually handicapped, and particularly by learning to heed the White Cane in order that our visually handicapped may use our streets and public facilities with maximum safety.

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



[FR Doc.74-16014 Filed 7-9-74;2:28 pm]

rules and regulations

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

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

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER B—ESTATE AND GIFT TAXES

[T.D. 7318]

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Transfers for Public, Charitable, and Religious Uses

By a notice of proposed rulemaking appearing in the FEDERAL REGISTER on April 21, 1972 (37 FR 7891), amendments to the Estate Tax Regulations (26 CFR Part 20) and the Gift Tax Regulations (26 CFR Part 25) were proposed in order to conform those regulations to the amendments of the Internal Revenue Code of 1954 made by section 201(d) of the Tax Reform Act of 1969 (83 Stat. 560). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, certain changes were made and the proposed amendments of the regulations, subject to the changes indicated below, are adopted by this document.

In general, the amendments to the Code made by section 201(d) of the Act are of two types. First, the definition of an organization to which a bequest or gift will qualify for the charitable deduction is restricted to an organization which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

Second, new provisions were added which disallow the charitable deduction in certain cases. Thus, the charitable deduction is disallowed for a bequest or gift to an organization whose governing instrument does not contain certain prohibitions or to an organization which has engaged in certain kinds of conduct. In addition, the charitable deduction is disallowed, with certain exceptions, for bequests or gifts of a charitable interest in property if interests in that property have been transferred by the decedent or donor for both charitable and non-charitable purposes. The regulations adopted by this document provide rules for determining whether a disallowance provision or one of the exceptions applies.

Proposed § 20.2055–2(b)(1) contained a rule that if it appears that charity may not receive the beneficial enjoyment of an income interest in property in trust a deduction will be allowed only for the minimum amount it is evident charity will receive. This rule, and accompanying example, have been transferred to § 20.2055–2(f)(2)(iv), relating to valuation of a charitable interest, where three new examples have been added. Corresponding changes have been made in proposed § 25.2522(c)–3(b)(1) and § 25.2522(c)–3(d)(2)(iv).

Proposed § 20.2055–2(e)(1)(i) contained a rule that an interest in property will not be considered to pass for a private purpose or in trust merely because an interest in that property does not pass to charity until the end of a reasonable period of administration or because an interest in that property is enjoyed by a private person during such period. This rule and the illustration of it has been deleted in the rules now adopted.

Example (1) in proposed §§ 2055–2(e)(1)(i) and 25.2522(c)–3(c)(1)(i) made it clear that transfers before the Tax Reform Act of 1969 would be taken into account and might disqualify a charitable transfer after that Act. Rules have now been adopted which make it clear that pre-1969 Act transfers will not be taken into account.

Proposed § 20.2055–2(e)(1)(ii), relating to an interest in property, and proposed § 20.2055–2(e)(1)(iii) relating to definition of the phrase "passes or has passed from the decedent, have been eliminated and instead the principles of section 2056 and the regulations thereunder are to be used in determining whether any interest in property has passed. Likewise proposed § 25.2522(c)3(c)(1)(ii), relating to an interest in property, and proposed § 25.2522(c)–3(c)(1)(iii), relating to the phrase "transferred or has been transferred by the donor" have been eliminated so as to adopt the principles used in the application of section 2523 and the regulations thereunder in determining whether an interest in property has been transferred.

Proposed §§ 20.2055–2(e)(2)(i) and 25.2522(c)–3(c)(2)(i), relating to an undivided portion of a decendent's, or a donor's, entire interest in property, have been revised to be more in conformity with the corresponding rules contained in § 1.170A–7(b)(1) of the Income Tax Regulations (26 CFR Part 1). As so revised these provisions are more restrictive than the rules which were contained in the notice of proposed rule making. The Internal Revenue Service has indicated, in Rev. Proc. 72–45, 1972–2 C.B. 826, that the taxpayer may use the broader definition in certain cases.

The rules on annuity trust interests and unitrust interests contained in §§ 20.2055–2(e)(2)(v) and (vi) and 25.2522(c)–3(c)(2)(v) and (vi) have been revised to make technical changes, to make clear that an individual whose life determined the payment of a charitable annuity interest must be living at the date of death or gift, and to permit selection of valuation dates in the case of a unitrust interest. In addition, the rules on payments by a split-interest trust for private purposes have been revised to eliminate their application to payments of guaranteed annuities or unitrust amounts for a private purpose, provided, however, that the obligation to pay the guaranteed annuity or unitrust amount for a charitable purpose begins as of the date of death of the decedent (or date of creation of the trust, in applying section 2522(a)) and that the obligation to pay the guaranteed annuity or unitrust amount for a private purpose does not precede in point of time the obligation to pay any guaranteed annuity or unitrust amount for a charitable purpose and provided that the governing instrument of the trust does not provide for any preference or priority in respect of any payment for a private purpose as opposed to any payment for a charitable purpose. Examples illustrating these changes have been added to §§ 20.2055–2(f)(2)(iv) and 25.2522(c)–3(d)(2)(iv), relating to valuation of a charitable interest.

A new provision has been added in § 20.2055–2(e)(5) that, for purposes of the effective date provisions, an amendment of a dispositive provision of a trust to which assets are to be transferred under a will will be considered a dispositive amendment of the will.

In view of the foregoing, the amendments of the regulations as proposed are hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. The amendment of § 20.2055, as set forth in paragraph 1 of the notice of proposed rule making, is deleted.

PAR. 2. Paragraph (d) of § 20.2055–1, as set forth in paragraph 2 of the notice of proposed rule making, is changed by adding new subparagraphs (4) and (5) at the end thereof to read as set forth below:

PAR. 3. Paragraphs (a), (b), (e), and (f) of section 20.2055–2, as set forth in paragraph 3 of the notice of proposed rulemaking, are changed to read as set forth below.

PAR. 4. Paragraph (b) of § 20.2055–5, as set forth in paragraph 5 of the notice of proposed rulemaking, is changed by revising subparagraph (1), subparagraph (2)(i)(a)(3), subparagraph (2(i)(b)(3), and subparagraph (2)(ii) to read as set forth below.

PAR. 5. The amendment of § 25.2522(a), as set forth in paragraph 8 of the notice of proposed rule making, is deleted.

PAR. 6. The amendment of § 25.2522(b), of proposed rule making, is deleted.

PAR. 7. Section 25.2522(c)-2, as set forth in paragraph 14 of the notice of proposed rule making, is changed by revising paragraph (b) to 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: July 8, 1974.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

PARAGRAPH 1. Section 20.2055-1 is amended by revising that part of paragraph (a) that follows subparagraph (1) and by adding a new paragraph (d), as follows:

§ 20.2055-1 Deduction for transfers for public, charitable, and religious uses; in general.

(a) *General rule.* * * *

(2) To or for the use of any corporation or association organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes (including the encouragement of art and the prevention of cruelty to children or animals), if no part of the net earnings of the corporation or association inures to the benefit of any private stockholder or individual (other than as a legitimate object of such purposes), if no substantial part of its activities is carrying on propaganda, or otherwise attempting, to influence legislation, and if, in the case of transfers made after December 31, 1969, it does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office;

(3) To a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, if the transferred property is to be used exclusively for religious, charitable, scientific, literary, or educational purposes (or for the prevention of cruelty to children or animals), if no substantial part of the activities of such transferee is carrying on propaganda, or otherwise attempting, to influence legislation, and if, in the case of transfers made after December 31, 1969, such transferee does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office; or

(4) To or for the use of any veterans' organization incorporated by act of Congress, or of any of its departments, local chapters, or posts, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

The deduction is not limited, in the case of estates of citizens or residents of the United States, to transfers to domestic corporations or associations, or to trustees for use within the United States. Nor is the deduction subject to percentage limitations such as are applicable to the charitable deduction under the income tax. An organization will not be considered to meet the requirements of subparagraph (2) or (3) of this paragraph if such organization engages in any activity which would cause it to be classified as an "action" organization under paragraph (c)(3) of § 1.501(c)(3)-1 of this chapter (Income Tax Regulations). See §§ 20.2055-4 and 20.2055-5 for rules relating to the disallowance of deductions to trusts and organizations which engage in certain prohibited transactions or whose governing instruments do not contain certain specified requirements.

* * * * *

(d) *Cross references.* (1) See section 2055(f) for certain cross references relating to section 2055.

(2) For treatment of bequests accepted by the Secretary of State or the Secretary of Commerce, for the purpose of organizing and holding an international conference to negotiate a Patent Corporation Treaty, as bequests to or for the use of the United States, see section 3 of Joint Resolution of December 24, 1969 (Public Law 91-160, 83 Stat. 443).

(3) For treatment of bequests accepted by the Secretary of the Department of Housing and Urban Development, for the purpose of aiding or facilitating the work of the Department, as bequests to or for the use of the United States, see section 7(k) of the Department of Housing and Urban Development Act (42 U.S.C. 3535), as added by section 905 of Public Law 91-609 (84 Stat. 1809).

(4) For treatment of certain property accepted by the Chairman of the Administrative Conference of the United States, for the purpose of aiding and facilitating the work of the Conference, as a devise or bequest to the United States, see 5 U.S.C. 575(c)(12), as added by section 1(b) of the Act of October 21, 1972 (Public Law 92-526, 86 Stat. 1048).

(5) For treatment of the Board for International Broadcasting as a corporation described in section 2055(a)(2), see section 7 of the Board for International Broadcasting Act of 1973 (Public Law 93-129, 87 Stat. 459).

PAR. 2. Section 20.2055-2 is amended by revising paragraphs (a) and (b), and by adding new paragraphs (e) and (f), as follows:

§ 20.2055-2 Transfers not exclusively for charitable purposes.

(a) *Remainders and similar interests.* If a trust is created or property is transferred for both a charitable and a private purpose, deduction may be taken of the value of the charitable beneficial interest only insofar as that interest is presently ascertainable, and hence severable from the noncharitable interest. Thus, in the case of decedents dying before January 1, 1970, if money or property is placed in trust to pay the income to an individual during his life, or for a term of years, and then to pay the principal to a charitable organization, the present value of the remainder is deductible. See paragraph (e) of this section for limitations applicable to decedents dying after December 31, 1969. See paragraph (f) of this section for rules relating to valuation of partial interests in property passing for charitable purposes.

(b) *Transfers subject to a condition or a power.* (1) If, as of the date of a decedent's death, a transfer for charitable purposes is dependent upon the performance of some act or the happening of a precedent event in order that it might become effective, no deduction is allowable unless the possibility that the charitable transfer will not become effective is so remote as to be negligible. If an estate or interest has passed to, or is vested in, charity at the time of a decedent's death and the estate or interest would be defeated by the subsequent performance of some act or the happening of some event, the possibility of occurrence of which appeared at the time of the decedent's death to be so remote as to be negligible, the deduction is allowable. If the legatee, devisee, donee, or trustee is empowered to divert the property or fund, in whole or in part, to a use or purpose which would have rendered it, to the extent that it is subject to such power, not deductible had it been directly so bequeathed, devised, or given by the decedent, the deduction will be limited to that portion, if any, of the property or fund which is exempt from an exercise of the power.

(2) The application of this paragraph may be illustrated by the following examples:

Example (1). In 1965, A dies leaving certain property in trust in which charity is to receive the income for the life of his widow. The assets placed in trust by the decedent consist of stock in a corporation the fiscal policies of which are controlled by the decedent and his family. The trustees of the trust and the remaindermen are members of the decedent's family, and the governing instrument contains no adequate guarantee of the requisite income to the charitable organization. Under such circumstances, no deduction will be allowed. Similarly, if the trustees are not members of the decedent's family but have no power to sell or otherwise dispose of the closely held stock, or otherwise insure the requisite enjoyment of income to the charitable organization, no deduction will be allowed.

Example (2). C dies leaving a tract of land to a city government for as long as the land is used by the city for a public park. If the city accepts the tract and if, on the date of C's death, the possibility that the city will not use the land for a public park is so remote as to be negligible, a deduction will be allowed.

* * * * *

(e) *Limitation applicable to decedents dying after December 31, 1969*—(1) *Disallowance of deduction.* In general, in the case of decedents dying after December 31, 1969, where an interest in property passes or has passed from the decedent for charitable purposes and an interest (other than an interest which is

extinguished upon the decedent's death) in the same property passes or has passed from the decedent for private purposes (for less than an adequate and full consideration in money or money's worth) after October 9, 1969, no deduction is allowed under section 2055 for the value of the interest which passes or has passed for charitable purposes unless the interest in property is a deductible interest described in subparagraph (3) of this paragraph. The principles of section 2056 and the regulations thereunder shall apply for purposes of determining under this subparagraph whether an interest in property passes or has passed from the decedent. If however, as of the date of a decedent's death, a transfer for a private purpose is dependent upon the performdecedent. If, however, as of the date of a precedent event in order that it might become effective, an interest in property will be considered to pass for a private purpose unless the possibility of occurrence of such act or event is so remote as to be negligible. The application of this subparagraph may be illustrated by the following examples, in each of which it is assumed that the interest in property which passes for private purposes does not pass for an adequate and full consideration in money or money's worth:

Example (1). In 1973, H creates a trust which is to pay the income of the trust to W for her life, the reversionary interest in the trust being retained by H. H predeceases W in 1975. H's will provide that the residue of his estate (including the reversionary interest in the trust) is to be transferred to charity. For purposes of this subparagraph, interests in the same property have passed from H for charitable purposes and for private purposes.

Example 2. In 1973, H creates a trust which is to pay the income of the trust to W for her life and upon termination of the life estate to transfer the remainder to S. S predeceases W in 1975. S's will provides that the residue of his estate (including the remainder interest in the trust) is to be transferred to charity. For purposes of this subparagraph, interests in the same property have not passed from H or S for charitable purposes and for private purposes.

Example (3). H transfers Blackacre to A by gift, reserving the right to the rentals of Blackacre for a term of 20 years. H dies within the 20-year term, bequeathing the right to the remaining rentals to charity. For purposes of this subparagraph the term "property" refers to Blackacre, and the right to rentals from Blackacre consist of an interest in Blackacre. An interest in Blackacre has passed from H for charitable purposes and for private purposes.

Example (4). H bequeaths the residue of his estate in trust for the benefit of A and a charity. An annuity of $5,000 a year is to be paid to charity for 20 years. Upon termination of the 20-year term the corpus is to be distributed to A if living. However, if A should die during the 20-year term, the corpus is to be distributed to charity upon termination of the term. An interest in the residue of the estate has passed from H for charitable purposes. In addition, an interest in the residue of the estate has passed from H for private purposes, unless the possibility that A will survive the 20-year term is so remote as to be negligible.

Example (5). H bequeaths the residue of his estate in trust. Under the terms of the trust an annuity of $5,000 a year is to be paid to charity for 20 years. Upon termination of the term, the corpus is to pass to such of A's children and their issue as A may appoint. However, if A should die during the 20-year term without exercising the power of appointment, the corpus is to be distributed to charity upon termination of the term. Since the possible appointees include private persons, an interest in the residue of the estate is considered to have passed from H for private purposes.

Example (6). H devises Blackacre to X Charity. Under applicable local law, W, H's widow, is entitled to elect a dower interest in Blackacre. W elects to take her dower interest in Blackacre. For purposes of this subparagraph, interests in the same property have passed from H for charitable purposes and for private purposes. If, however, W does not elect to take her dower interest in Blackacre, then, for purposes of this subparagraph, interests in the same property have not passed from H for charitable purposes and for private purposes.

(2) *Deductible interests.* A deductible interest for purposes of subparagraph (1) of this paragraph is a charitable interest in property where—

(i) *Undivided portion of decedent's entire interest.* The charitable interest is an undivided portion, not in trust, of the decedent's entire interest in property. An undivided portion of a decedent's entire interest in property must consist of a fraction or percentage of each and every substantial interest or right owned by the decedent in such property and must extend over the entire term of the decedent's interest in such property and in other property into which such property is converted. For example, if the decedent transferred a life estate in an office building to his wife for her life and retained a reversionary interest in the office building, the devise by the decedent of one-half of that reversionary interest to charity while his wife is still alive will not be considered the transfer of a deductible interest; because an interest in the same property has already passed from the decedent for private purposes, the reversionary interest will not be considered the decedent's entire interest in the property. If, on the other hand, the decedent had been given a life estate in Blackacre for the life of his wife and the decedent had no other interest in Blackacre at any time during his life, the devise by the decedent of one-half of that life estate to charity would be considered the transfer of a deductible interest; because the life estate would be considered the decedent's entire interest in the property, the devise would be of an undivided portion of such entire interest. An undivided portion of a decedent's entire interest in the property includes an interest in property whereby the charity is given the right, as a tenant in common with the decedent's devisee or legatee, to possession, dominion, and control of the property for a portion of each year appropriate to its interest in such property. However, for purposes of this subdivision, a charitable contribution in perpetuity of an interest in property not in trust where the decedent transfers some specific rights to one party and transfers other substantial rights to another party will not be considered a contribution of an undivided portion of the decedent's entire interest in property. Thus, for example, a deduction is not allowable for the value of an immediate and perpetual gift not in trust of an interest in original historic motion picture films to a charitable organization where a private party is granted the exclusive right to make reproductions of such films and to exploit such reproductions commercially. A bequest to charity of an open space easement in gross in perpetuity shall be considered the transfer to charity of an undivided portion of the decedent's entire interest in property. For the definition of an open space easement in gross in perpetuity, see § 1.170 A–7(b)(1)(ii) of this chapter (Income Tax Regulations).

(ii) *Remainder interest in personal residence.* The charitable interest is a remainder interest, not in trust, in a personal residence. Thus, for example, if the decedent devises to charity a remainder interest in a personal residence and bequeaths to his surviving spouse a life estate in such property, the value of the remainder interest is deductible under section 2055. For purposes of this subdivision, the term "personal residence" means any property which was used by the decedent as his personal residence even though it was not used as his principal residence. For example, a decedent's vacation home may be a personal residence for purposes of this subdivision. The term "personal residence" also includes stock owned by the decedent as a tenant-stockholder in a cooperative housing corporation (as those terms are defined in section 216(b) (1) and (2)) if the dwelling which the decedent was entitled to occupy as such stockholder was used by him as his personal residence.

(iii) *Remainder interest in a farm.* The charitable interest is a remainder interest, not in trust, in a farm. Thus, for example, if the decedent devises to charity a remainder interest in a farm and bequeaths to his daughter a life estate in such property, the value of the remainder interest is deductible under section 2055. For purposes of this subdivision, the term "farm" means any land used by the decedent or his tenant for the production of crops, fruits, or other agricultural products or for the sustenance of livestock. The term "livestock" includes cattle, hogs, horses, mules, donkeys, sheep, goats, captive furbearing animals, chickens, turkeys, pigeons, and other poultry. A farm includes the improvements thereon.

(iv) *Charitable remainder trusts and pooled income funds.* The charitable interest is a remainder interest in a trust which is a charitable remainder annuity trust, as defined in section 664(d)(1) and § 1.664–2 of this chapter; a charitable remainder unitrust, as defined in section 664(d) (2) and (3) and § 1.664–3 of this chapter; or a pooled income fund, as defined in section 642(c)(5) and § 1.642 (c)–5 of this chapter. The charitable organization to or for the use of which the remainder interest passes must meet the requirements of both section 2055(a) and section 642(c)(5)(A), section 664 (d)(1)(C), or section 664(d)(2)(C), whichever applies. For example, the

charitable organization to which the remainder interest in a charitable remainder annuity trust passes may not be a foreign corporation.

(v) *Guaranteed annuity interest.* (*a*) The charitable interest is a guaranteed annuity interest, whether or not such interest is in trust. For purposes of this subdivision (v), the term "guaranteed annuity interest" means the right pursuant to the instrument of transfer to receive a guaranteed annuity. A guaranteed annuity is an arrangement under which a determinable amount is paid periodically, but not less often than annually, for a specified term or for the life or lives of an individual or individuals, each of whom must be living at the date of death of the decedent and can be ascertained at such date. For example, the annuity may be paid for the life of A plus a term of years. An amount is determinable if the exact amount which must be paid under the conditions specified in the instrument of transfer can be ascertained as of the appropriate valuation date. For example, the amount to be paid may be a stated sum for a term, or for the life of an individual, at the expiration of which it may be changed by a specified amount, but it may not be redetermined by reference to a fluctuating index such as the cost of living index. In further illustration, the amount to be paid may be expressed in terms of a fraction or a percentage of the net fair market value, as finally determined for Federal estate tax purposes, of the residue of the estate on the appropriate valuation date, or it may be expressed in terms of a fraction or percentage of the cost of living index on the appropriate valuation date.

(*b*) A charitable interest is a guaranteed annuity interest only if it is a guaranteed annuity interest in every respect. For example, if the charitable interest is the right to receive from a trust each year a payment equal to the lesser of a sum certain or a fixed percentage of the net fair market value of the trust assets, determined annually, such interest is not a guaranteed annuity interest.

(*c*) Where a charitable interest in the form of a guaranteed annuity interest is not in trust, the interest will be considered a guaranteed annuity interest only if it is to be paid by an insurance company or by an organization regularly engaged in issuing annuity contracts.

(*d*) Where a charitable interest in the form of a guaranteed annuity interest is in trust, the governing instrument of the trust may provide that income of the trust which is in excess of the amount required to pay the guaranteed annuity interest shall be paid to or for the use of a charity. Nevertheless, the amount of the deduction under section 2055 shall be limited to the fair market value of the guaranteed annuity interest as determined under paragraph (f)(2)(iv) of this section.

(*e*) Where a charitable interest in the form of a guaranteed annuity interest is in trust and the present value, on the appropriate valuation date, of all the income interests for a charitable purpose exceeds 60 percent of the aggregate fair market value of all amounts in such trust (after the payment of estate taxes and all other liabilities), the charitable interest will not be considered a guaranteed annuity interest unless the governing instrument of the trust prohibits both the acquisition and the retention of assets which would give rise to a tax under section 4944 if the trustee had acquired such assets.

(*f*) Where a charitable interest in the form of a guaranteed annuity interest is in trust, the charitable interest will not be considered a guaranteed annuity interest if any amount other than an amount in payment of a guaranteed annuity interest may be paid by the trust for a private purpose before the expiration of all the income interests for a charitable purpose, unless such amount for a private purpose is paid from a group of assets which, pursuant to the governing instrument of the trust, are devoted exclusively to private purposes and to which section 4947(a)(2) is inapplicable by reason of section 4947(a)(2)(B). The exception in the immediately preceding sentence with respect to any guaranteed annuity for a private purpose shall apply only if the obligation to pay the annuity for a charitable purpose begins as of the date of death of the decedent and the obligation to pay the guaranteed annuity for a private purpose does not precede in point of time the obligation to pay the annuity for a charitable purpose and only if the governing instrument of the trust does not provide for any preference or priority in respect of any payment of the guaranteed annuity for a private purpose as opposed to any payment of any annuity for a charitable purpose. For purposes of this (*f*), an amount is not paid for a private purpose if it is paid for an adequate and full consideration in money or money's worth. See § 53.4947-1(c) of this chapter (Foundation Excise Tax Regulations) for rules relating to the inapplicability of section 4947(a)(2) to segregated amounts in a split-interest trust.

(*g*) Neither the requirement in (*e*) of this subdivision (v) for a prohibition in the governing instrument against the retention of assets which would give rise to a tax under section 4944 if the trustee had acquired the assets nor the provisions of (*f*) of this subdivision (v) shall apply to—

(*1*) A trust executed on or before May 21, 1972, if—

(*i*) The trust is irrevocable on such date,

(*ii*) The trust is revocable on such date and the decedent dies within 3 years after such date without having amended any dispositive provision of the trust after such date, or

(*iii*) The trust is revocable on such date and no dispositive provision of the trust is amended within a period ending 3 years after such date and the decedent is, at the end of such 3-year period and at all times thereafter, under a mental disability (as defined in § 1.642(c)-2(b)(3)(ii) of this chapter) to amend the trust, or

(*2*) A will executed on or before May 21, 1972, if—

(*i*) The testator dies within 3 years after such date without having amended any dispositive provision of the will after such date, by codicil or otherwise,

(*ii*) The testator at no time after such date has the right to change the provisions of the will which pertain to the trust, or

(*iii*) No dispositive provision of the will is amended by the decedent, by codicil or otherwise, within a period ending 3 years after such date and the decedent is, at the end of such 3-year period and at all times thereafter, under a mental disability (as defined in § 1.642(c)-2(b)(3)(ii) of this chapter) to amend the will by codicil or otherwise.

(*h*) For purposes of this subdivision (v) and paragraph (f) of this section, the term "appropriate valuation date" means the date of death or the alternate valuation date determined pursuant to an election under section 2032.

(*i*) For rules relating to certain governing instrument requirements and to the imposition of certain excise taxes where the guaranteed annuity interest is in trust and for rules governing payment of private income interests by split-interest trusts, see section 4947(a)(2) and (b)(3)(A), and the regulations thereunder.

(vi) *Unitrust interest.* (*a*) The charitable interest is a unitrust interest, whether or not such interest is in trust. For purposes of this subdivision (vi), the term "unitrust interest" means the right pursuant to the instrument of transfer to receive payment, not less often than annually, of a fixed percentage of the net fair market value, determined annually, of the property which funds the unitrust interest. In computing the net fair market value of the property which funds the unitrust interest, all assets and liabilities shall be taken into account without regard to whether particular items are taken into account in determining the income from the property. The net fair market value of the property which funds the unitrust interest may be determined on any one date during the year or by taking the average of valuations made on more than one date during the year, provided that the same valuation date or dates and valuation methods are used each year. Where the charitable interest is a unitrust interest to be paid by a trust and the governing instrument of the trust does not specify the valuation date or dates, the trustee shall select such date or dates and shall indicate his selection on the first return on Form 1041 which the trust is required to file. Payments under a unitrust interest may be paid for a specified term or for the life or lives of an individual or individuals, each of whom must be living at the date of death of the decedent and can be ascertained at such date. For example, the unitrust interest may be paid for the life of A plus a term of years.

(b) A charitable interest is a unitrust interest only if it is a unitrust interest in every respect. For example, if the charitable interest is the right to receive from a trust each year a payment equal to the lesser of a sum certain or a fixed percentage of the net fair market value of the trust assets, determined annually, such interest is not a unitrust interest.

(c) Where a charitable interest in the form of a unitrust interest is not in trust, the interest will be considered a unitrust interest only if it is to be paid by an insurance company or by an organization ularly engaged in issuing interests otherwise meeting the requirements of a unitrust interest.

(d) Where a charitable interest in the form of a unitrust interest is in trust, the governing instrument of the trust may provide that income of the trust which is in excess of the amount required to pay the unitrust interest shall be paid to or for the use of a charity. Nevertheless, the amount of the deduction under section 2055 shall be limited to the fair market value of the unitrust interest as determined under paragraph (f)(2)(v) of this section.

(e) Where a charitable interest in the form of a unitrust interest is in trust, the charitable interest will not be considered a unitrust interest if any amount other than an amount in payment of a unitrust interest may be paid by the trust for a private purpose before the expiration of all the income interests for a charitable purpose, unless such amount for a private purpose is paid from a group of assets which, pursuant to the governing instrument of the trust, are devoted exclusively to private purposes and to which section 4947(a)(2) is inapplicable by reason of section 4947(a)(2)(B). The exception in the immediately preceding sentence with respect to any unitrust interest for a private purpose shall apply only if the obligation to pay the unitrust interest for a charitable purpose begins as of the date of death of the decedent and the obligation to pay the unitrust interest for private purpose does not precede in point of time the obligation to pay the unitrust interest for a charitable purpose and only if the governing instrument of the trust does not provide for any preference or priority in respect of any payment of the unitrust interest for a private purpose as opposed to any payment of any unitrust interest for a charitable purpose. For purposes of this (e), an amount is not paid for a private purpose if it is paid for an adequate and full consideration in money or money's worth. See § 53.4947–1(c) of this chapter (Foundation Excise Tax Regulations) for rules relating to the inapplicability of section 4947(a)(2) to segregated amounts in a split-interest trust.

(f) For rules relating to certain governing instrument requirements and to the imposition of certain excise taxes where the unitrust interest is in trust and for rules governing payment of private income interests by a split-interest trust, see section 4947(a)(2) and (b)(3)(A), and the regulations thereunder.

(3) *Effective date.* The provisions of this paragraph apply only in the case of decedents dying after December 31, 1969, except that they do not apply—

(i) In the case of property passing under the terms of a will executed on or before October 9, 1969—

(a) If the decedent dies after October 9, 1969, but before October 9, 1972, without having amended any dispositive provision of the will after October 9, 1969, by codicil or otherwise,

(b) If the decedent dies after October 9, 1969, and at no time after that date had the right to change the portions of the will which pertain to the passing of the property to, or for the use of, an organization described in section 2055(a), or

(c) If no dispositive provision of the will is amended by the decedent, by codicil or otherwise, after October 9, 1969, and before October 9, 1972, and the decedent is on October 9, 1972, and at all times thereafter under a mental disability (as defined in § 1.642(c)–2(b)(3)(ii) of this chapter (Income Tax Regulations)) to amend the will by codicil or otherwise, or

(ii) In the case of property transferred in trust on or before October 9, 1969—

(a) If the decedent dies after October 9, 1969, but before October 9, 1972, without having amended, after October 9, 1969, any dispositive provision of the instrument governing the disposition of the property,

(b) If the property transferred was an irrevocable interest to, or for the use of, an organization described in section 2055(a), or

(c) If no dispositive provision of the instrument governing the disposition of the property is amended by the decedent after October 9, 1969, and before October 9, 1972, and the decedent is on October 9, 1972, and at all times thereafter under a mental disability (as defined in § 1.642(c)–2(b)(3)(ii) of this chapter) to change the disposition of the property.

(4) *Amendment of dispositive provisions.* For purposes of subparagraphs (2) and (3) of this paragraph, an amendment shall generally be considered as one which amends the dispositive provisions of a will or trust if it results in a change in the persons to whom the funds are to be given or makes changes in the conditions under which the funds are given. Examples of amendments which do not amend the dispositive provisions of a will or trust include the substitution of one fiduciary for another to act in the capacity of executor or trustee and the change in the name of a legatee or beneficiary by reason of the legatee's or beneficiary's marriage. On the other hand, examples of amendments which do amend the dispositive provisions of a will or trust include an increase or decrease in the amount of a general bequest, an amendment which increases or decreases the power of a trustee to determine an allocation of income or corpus in such a way as to change the beneficiaries of the funds or a beneficiary's share of the funds, or a change in the allocation of, or in the right to allocate, receipts and expenditures between income and principal in such a way as to change the beneficiaries of the funds or a beneficiary's share of the funds.

(5) *Amendment of wills providing for pour-over into trusts.* For purposes of subparagraphs (2) and (3) of this paragraph, an amendment of a dispositive provision of a trust to which assets are to be transferred under a will shall be considered a dispositive amendment of such will.

(f) *Valuation of charitable interest*—(1) *In general.* The amount of the deduction in the case of a contribution of a partial interest in property to which this section applies is the fair market value of the partial interest at the appropriate valuation date, as defined in paragraph (e)(2)(v)(*h*) of this section. The fair market value of an annuity, life estate, term for years, remainder, reversion, (or) unitrust interest is its present value.

(2) *Certain decedents dying after July 31, 1969.* In the case of a transfer of an interest described in subdivision (iv), (v), or (vi) of paragraph (e)(2) of this section by decedents dying after July 31, 1969, the present value of such interest is to be determined under the following rules:

(i) The present value of a remainder interest in a charitable remainder annuity trust is to be determined under § 1.664–2(c) of this chapter (Income Tax Regulations).

(ii) The present value of a remainder interest in a charitable remainder unitrust is to be determined under § 1.664–4 of this chapter.

(iii) The present value of a remainder interest in a pooled income fund is to be determined under § 1.642(c)–6 of this chapter.

(iv) The present value of a guaranteed annuity interest described in paragraph (e)(2)(v) of this section is to be determined under § 20.2031–10 except that, if the annuity is issued by a company regularly engaged in the sale of annuities, the present value is to be determined under § 20.2031–8. If by reason of all the conditions and circumstances surrounding a transfer of an income interest in property in trust it appears that the charity may not receive the beneficial enjoyment of the interest, a deduction will be allowed under section 2055 only for the minimum amount it is evident the charity will receive.

Example (1). In 1975, B dies bequeathing $20,000 in trust with the requirement that a designated charity be paid a guaranteed annuity interest (as defined in paragraph (e)(2)(v) of this section) of $4,100 a year, payable annually at the end of each year, for a period of 6 years and that the remainder be paid to his children. The fair market value of an annuity of $4,100 a year for a period of 6 years is $20,160.93 ($4,100 x 4.9173), as determined under Table B in § 20.2031–10(f). The deduction with respect to the guaranteed annuity interest will be limited to $20,000, which is the minimum amount it is evident the charity will receive.

Example (2). In 1975, C dies bequeathing $40,000 in trust with the requirement that D, an individual, and X Charity be paid simultaneously guaranteed annuity interests (as defined in paragraph (e)(2)(v) of this section) of $5,000 a year each, payable an-

nually at the end of each year, for a period of 5 years and that the remainder be paid to C's children. The fair market value of two annuities of $5,000 each a year for a period of 5 years is $42,124 ([$5,000 x 4.2124] x 2), as determined under Table B in § 20.2031–10(f). The trust instrument provides that in the event the trust fund is insufficient to pay both annuities in a given year, the trust fund will be evenly divided between the charitable and private annuitants. The deduction with respect to the charitable annuity will be limited to $20,000, which is the minimum amount it is evident the charity will receive.

Example (3). In 1975, D dies bequeathing $65,000 in trust with the requirement that a guaranteed annuity interest (as defined in paragraph (e)(2)(v) of this section) of $5,000 a year, payable annually at the end of each year, be paid to Y Charity for a period of 10 years and that a guaranteed annuity interest (as defined in paragraph (e)(2)(v) of this section) of $5,000 a year, payable annually at the end of each year, be paid to W, his widow, age 62, for life. The annuities are to be paid simultaneously, and the remainder is to be paid to D's children. The fair market value of the private annuity is $33,877 ($5,000 x 6.7754), as determined pursuant to § 20.2031–10(e) and by the use of factors involving one life and a term of years as published in Publication 723A (12–70). The fair market value of the charitable annuity is $36,800.50 ($5,000 x 7.3601), as determined under Table B in § 20.2031–10(f). It is not evident from the governing instrument of the trust or from local law that the trustee would be required to apportion the trust fund between the widow and charity in the event the fund were insufficient to pay both annuities in a given year. Accordingly, the deduction with respect to the charitable annuity will be limited to $31,123 ($65,000 less $33,877 [the value of the private annuity]), which is the minimum amount it is evident the charity will receive.

Example (4). In 1975, E dies bequeathing $75,000 in trust with the requirement that an annuity of $5,000 a year, payable annually at the end of each year, be paid to B, an individual, for a period of 5 years and thereafter an annuity of $5,000 a year, payable annually at the end of each year, be paid to M Charity for a period of 5 years. The remainder is to be paid to C, an individual. No deduction is allowed under section 2055(a) with respect to the charitable annuity because it is not a "guaranteed annuity interest" within the meaning of paragraph (e)(2)(v)(f) of this section.

(v) The present value of a unitrust interest described in paragraph (e)(2)(vi) of this section is to be determined by subtracting the present value of all interests in the transferred property other than the unitrust interest from the fair market value of the transferred property.

(3) *Certain decedents dying before August 1, 1969.* In the case of decedents dying before August 1, 1969, the present value of an interest described in subparagraph (2) of this paragraph is to be determined under § 20.2031–7 except that, if the interest is an annuity issued by a company regularly engaged in the sale of annuities, the present value is to be determined under § 20.2031–8.

(4) *Other decedents.* The present value of an interest not described in subparagraph (2) of this paragraph is to be determined under § 20.2031–7 in the case of decedents dying before January 1, 1971, or under § 20.2031–10 in the case of decedents dying after December 31, 1970.

(5) *Special computations.* If the interest transferred is such that its present value is to be determined by a special computation, a request for a special factor, accompanied by a statement of the date of birth and sex of each individual the duration of whose life may affect the value of the interest, and by copies of the relevant instruments, may be submitted by the fiduciary to the Commissioner who may, if conditions permit, supply the factor requested. If the Commissioner furnishes the factor, a copy of the letter supplying the factor must be attached to the tax return in which the deduction is claimed. If the Commissioner does not furnish the factor, the claim for deduction must be supported by a full statement of the computation of the present value made in accordance with the principles set forth in this paragraph.

PAR. 3. Section 20.2055–4 is amended by revising the heading thereof and by adding a new paragraph (d), as follows:

§ 20.2055–4 Disallowance of charitable, etc., deductions because of "prohibited transactions" in the case of decedents dying before January 1, 1970.

* * * * *

(d) This section applies only in the case of decedents dying before January 1, 1970. In the case of decedents dying after December 31, 1969, see § 20.2055–5.

PAR. 4. The following new section is added immediately after § 20.2055–4:

§ 20.2055–5 Disallowance of charitable, etc., deductions in the case of decedents dying after December 31, 1969.

(a) *Organizations subject to section 507(c) tax.* Section 508(d)(1) provides that, in the case of decedents dying after December 31, 1969, a deduction which would otherwise be allowable under section 2055 for the value of property transferred by the decedent to or for the use of an organization upon which the tax provided by section 507(c) has been imposed shall not be allowed if the transfer is made by the decedent after notification is made under section 507(a) or if the decedent is a substantial contributor (as defined in section 507(d)(2)) who dies on or after the first day on which action is taken by such organization that culminates in the imposition of the tax under section 507(c). This paragraph does not apply if the entire amount of the unpaid portion of the tax imposed by section 507(c) is abated under section 507(g) by the Commissioner or his delegate.

(b) *Taxable private foundations, section 4947 trusts, etc.*—(1) *In general.* Section 508(d)(2) provides that, in the case of decedents dying after December 31, 1969, a deduction which would otherwise be allowable under section 2055 for the value of property transferred by the decedent shall not be allowed if the transfer is made to or for the use of—

(i) A private foundation or a trust described in section 4947(a)(2) in a taxable year of such organization for which such organization fails to meet the governing instrument requirements of section 508(e) (determined without regard to section 508(e)(2)(B) and (C)), or

(ii) Any organization in a period for which it is not treated as an organization described in section 501(c)(3) by reason of its failure to give notification under section 508(a) of its status to the Commissioner.

For additional rules, see § 1.508–2(b)(1) of this chapter (Income Tax Regulations).

(2) *Transfers not covered by section 508(d)(2)(A)*—(i) *In general.* Any deduction which would otherwise be allowable under section 2055 for the value of property transferred by a decedent dying after December 31, 1969, will not be disallowed under section 508(d)(2)(A) and subparagraph (1)(i) of this paragraph—

(*a*) In the case of property passing under the terms of a will executed on or before October 9, 1969—

(*1*) If the decedent dies after October 9, 1969, but before October 9, 1972, without having amended any dispositive provision of the will after October 9, 1969, by codicil or otherwise,

(*2*) If the decedent dies after October 9, 1969, and at no time after that date had the right to change the portions of the will which pertain to the passing of the property to, or for the use of, an organization described in section 2055(a), or

(*3*) If no dispositive provision of the will is amended by the decedent, by codicil or otherwise, after October 9, 1969, and before October 9, 1972, and the decedent is on October 9, 1972, and at all times thereafter under a mental disability (as defined in § 1.642(c)–2(b)(3)(ii) of this chapter) to amend the will by codicil or otherwise, or

(*b*) In the case of property transferred in trust on or before October 9, 1969—

(*1*) If the decedent dies after October 9, 1969, but before October 9, 1972, without having amended, after October 9, 1969, any dispositive provision of the instrument governing the disposition of the property,

(*2*) If the property transferred was an irrevocable interest to, or for the use of, an organization described in section 2055(a), or

(*3*) If no dispositive provision of the instrument governing the disposition of the property is amended by the decedent after October 9, 1969, and before October 9, 1972, and the decedent is on October 9, 1972, and at all times thereafter under a mental disability (as defined in § 1.642(c)–2(b)(3)(ii) of this chapter) to change the disposition of the property.

(ii) *Amendment of dispositive provisions.* For purposes of subdivision (i) of this subparagraph, the provisions of paragraph (e)(4) and (5) of § 20.2055–2 shall apply in determining whether an amendment will be considered as one which amends the dispositive provisions of a will or trust.

(c) *Foreign organization with substantial support from foreign sources.* Section 4948(c)(4) provides that, in the case of decedents dying after December 31, 1969, a deduction which would otherwise be allowable under section 2055 for the value of property transferred by the decedent to or for the use of a foreign organization which has received substantially all of its support (other than gross investment income) from sources without the United States shall not be allowed if the transfer is made (1) after the date on which the Commissioner has published notice that he has notified such organization that it has engaged in a prohibited transaction, or (2) in a taxable year of such organization for which it is not exempt from taxation under section 501(a) because it has engaged in a prohibited transaction after December 31, 1969.

PAR. 5. Section 20.2106 is amended by revising section 2106(a)(2)(A) (ii) and (iii), (E), (3), and the historical note, as follows:

§ 20.2106 Statutory provisions; taxable estate.

SEC. 2106. *Taxable estates*—(a) *Definition of taxable estate.* * * *

(2) *Transfers for public, charitable, and religious uses*—(A) *In general.* * * *

(ii) To or for the use of any domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office; or

(iii) To a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used within the United States by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation, and such trustee or trustees, or such fraternal society, order, or association, does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

* * * * *

(E) *Disallowance of deductions in certain cases.* The provisions of section 2055(e) shall be applied in the determination of the amount allowable as a deduction under this paragraph.

* * * * *

(3) *Exemption*—(A) *General rule.* An exemption of $30,000.

(B) *Residents of possessions of the United States.* In the case of a decedent who is considered to be a "nonresident not a citizen of the United States" under the provisions of section 2209, the exemption shall be the greater of (i) $30,000, or (ii) that proportion of the exemption authorized by section 2052 which the value of that part of the decedent's gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated.

* * * * *

[Sec. 2106 as amended by sec. 30(d), Technical Amendments Act 1958 (72 Stat. 1631); sec. 4(c), Act of Sept. 14, 1960 (Public Law 86-779, 74 Stat. 1000); sec. 108(e), Foreign Investors Tax Act 1966 (80 Stat. 1572); sec. 201(d)(2) and (4), Tax Reform Act 1969 (83 Stat. 561)]

PAR. 6. Section 20.2106-1 is amended by revising paragraph (a)(2) to read as follows:

§ 20.2106-1 Estate of nonresidents not citizens; taxable estate; deductions in general.

(a) * * *

(2) A deduction computed in the same manner as the one allowed under section 2055 (see §§ 20.2055-1 through 20.2055-5) for charitable, etc., transfers, except—

(i) That the deduction is allowed only for transfers to corporations and associations created or organized in the United States, and to trustees for use within the United States, and

(ii) That the provisions contained in paragraph (c)(2) of § 20.2055-2 relating to termination of a power to consume are not applicable.

* * * * *

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

PAR. 7. Section 25.2522(a)-1 is amended by revising paragraph (a)(2), by revising that part of paragraph (a) that follows subparagraph (4), and by revising paragraph (b), as follows:

§ 25.2522(a)-1 Charitable and similar gifts; citizens or residents.

(a) * * *

(2) Any corporation, trust, community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, if no part of the net earnings of the organization inures to the benefit of any private shareholder or individual, if no substantial part of its activities is carrying on propaganda, or otherwise attempting, to influence legislation, and if, in the case of gifts made after December 31, 1969, it does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

* * * * *

The deduction is not limited to gifts for use within the United States, or to gifts to or for the use of domestic corporations, trusts, community chests, funds, or foundations, or fraternal societies, orders, or associations operating under the lodge system. An organization will not be considered to meet the requirements of subparagraph (2) of this paragraph, or of paragraph (b)(2) or (3) of this section, if such organization engages in any activity which would cause it to be classified as an "action" organization under paragraph (c)(3) of § 1.501(c)(3)-1 of this chapter (Income Tax Regulations). For the deductions for charitable and similar gifts made by a nonresident who was not a citizen of the United States at the time the gifts were made, see § 25.2522(b)-1. See §§ 25.2522(c)-1 and 25.2522(c)-2 for rules relating to the disallowance of deductions to trusts and organizations which engage in certain prohibited transactions or whose governing instruments do not contain certain specified requirements.

(b) The deduction under section 2522 is not allowed for a transfer to a corporation, trust, community chest, fund, or foundation unless the organization or trust meets the following four tests:

(1) It must be organized and operated exclusively for one or more of the specified purposes.

(2) It must not, by a substantial part of its activities, attempt to influence legislation by propaganda or otherwise.

(3) In the case of gifts made after December 31, 1969, it must not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

(4) Its net earnings must not inure in whole or in part to the benefit of private shareholders or individuals other than as legitimate objects of the exempt purposes.

* * * * *

PAR. 8. Section 25.2522(a)-2 is amended by revising the heading thereof and by adding a new paragraph (c), as follows:

§ 25.2522(a)-2 Transfers not exclusively for charitable, etc., purposes in the case of gifts made before August 1, 1969.

* * * * *

(c) *Effective date.* This section applies only to gifts made before August 1, 1969. In the case of gifts made after July 31, 1969, see § 25.2522(c)-2.

PAR. 9. Section 25.2522(c) is amended by revising section 2522(c) and the historical note, as follows:

§ 25.2522(c) Statutory provisions; charitable and similar gifts; disallowance of deductions in certain cases.

SEC. 2522. *Charitable and similar gifts.* * * *

(c) *Disallowance of deductions in certain cases.* (1) No deduction shall be allowed under this section for a gift to or for the use of an organization or trust described in section 508(d) or 4948(c)(4) subject to the conditions specified in such sections.

(2) Where a donor transfers an interest in property (other than a remainder interest in a personal residence or farm or an undivided portion of the donor's entire interest in property) to a person, or for a use, described in subsection (a) or (b) and an interest in the same property is retained by the donor, or is transferred or has been transferred (for less than an adequate and full consideration in money or money's worth) from the donor to a person, or for a use, not described in subsection (a) or (b), no deduction shall be allowed under this section for the interest which is, or has been

transferred to the person, or for the use, described in subsection (a) or (b), unless—

(A) In the case of a remainder interest, such interest is in a trust which is a charitable remainder annuity trust or a charitable remainder unitrust (described in section 664) or a pooled income fund (described in section 642(c)(5)), or

(B) In the case of any other interest, such interest is in the form of a guaranteed annuity or is a fixed percentage distributed yearly of the fair market value of the property (to be determined yearly).

(Sec. 2522(c) as amended by sec. 30(d), Technical Amendments Act 1958 (72 Stat. 1631); sec. 201(d)(3), Tax Reform Act 1969 (83 Stat. 561))

PAR. 10. Section 25.2522(c)-1 is amended by revising the heading thereof and by adding a new paragraph (e), as follows:

§ 25.2522(c)-1 Disallowance of charitable, etc., deductions because of "prohibited transactions" in the case of gifts made before January 1, 1970.

* * * * *

(e) This section applies only to gifts made before January 1, 1970. In the case of gifts made after December 31, 1969, see § 25.2522(c)-2.

PAR. 11. The following new sections are added immediately after § 25.2522(c)-1:

§ 25.2522(c)-2 Disallowance of charitable, etc., deductions in the case of gifts made after December 31, 1969.

(a) *Organizations subject to section 507(c) tax.* Section 508(d)(1) provides that, in the case of gifts made after December 31, 1969, a deduction which would otherwise be allowable under section 2522 for a gift to or for the use of an organization upon which the tax provided by section 507(c) has been imposed shall not be allowed if the gift is made by the donor after notification is made under section 507(a) or if the donor is a substantial contributor (as defined in section 507(d)(2)) who makes such gift in his taxable year (as defined in section 441) which includes the first day on which action is taken by such organization that culminates in the imposition of the tax under section 507(c) and any subsequent taxable year. This paragraph does not apply if the entire amount of the unpaid portion of the tax imposed by section 507(c) is abated under section 507(g) by the Commissioner or his delegate.

(b) *Taxable private foundations, section 4947 trusts, etc.* Section 508(d)(2) provides that, in the case of gifts made after December 31, 1969, a deduction which would otherwise be allowable under section 2522 shall not be allowed if the gift is made to or for the use of—

(1) A private foundation or a trust described in section 4947(a)(2) in a taxable year of such organization for which such organization fails to meet the governing instrument requirements of section 508(e) (determined without regard to section 508(e)(2) (B) and (C)), or

(2) Any organization in a period for which it is not treated as an organization described in section 501(c)(3) by reason of its failure to give notification under section 508(a) of its status to the Commissioner.

For additional rules, see § 1.508-2(b)(1) of this chapter (Income Tax Regulations).

(c) *Foreign organizations with substantial support from foreign sources.* Section 4948(c)(4) provides that, in the case of gifts made after December 31, 1969, a deduction which would otherwise be allowable under section 2522 for a gift to or for the use of a foreign organization which has received substantially all of its support (other than gross investment income) from sources without the United States shall not be allowed if the gift is made (1) after the date on which the Commissioner has published notice that he has notified such organization that it has engaged in a prohibited transaction, or (2) in a taxable year of such organization for which it is not exempt from taxation under section 501(a) because it has engaged in a prohibited transaction after December 31, 1969.

§ 25.2522(c)-3 Transfers not exclusively for charitable, etc., purposes in the case of gifts made after July 31, 1969.

(a) *Remainders and similar interests.* If a trust is created or property is transferred for both a charitable and a private purpose, deduction may be taken of the value of the charitable beneficial interest only insofar as that interest is presently ascertainable, and hence severable from the noncharitable interest.

(b) *Transfers subject to a condition or a power.* (1) If, as of the date of the gift, a transfer for charitable purposes is dependent upon the performance of some act or of the happening of a precedent event in order that it might become effective, no deduction is allowable unless the possibility that the charitable transfer will not become effective is so remote as to be negligible. If an estate or interest has passed to, or is vested in, charity on the date of the gift and the estate or interest would be defeated by the performance of some act or the happening of some event, the possibility of occurrence of which appeared on such date to be so remote as to be negligible, the deduction is allowable. If the donee or trustee is empowered to divert the property or fund, in whole or in part, to a use or purpose which would have rendered it, to the extent that it is subject to such power, not deductible had it been directly so given by the donor, the deduction will be limited to that portion, if any, of the property or fund which is exempt from an exercise of the power.

(2) The application of this paragraph may be illustrated by the following examples:

Example (1). In 1965, A transfers certain property in trust in which charity is to receive the income for his life. The assets placed in trust by the donor consist of stock in a corporation the fiscal policies of which are controlled by the donor and his family. The trustees of the trust and the remainderman are members of the donor's family and the governing instrument contains no adequate guarantee of the requisite income to the charitable organization. Under such circumstances, no deduction will be allowed. Similarly, if the trustees are not members of the donor's family but have no power to sell or otherwise dispose of the closely held stock, or otherwise insure the requisite enjoyment of income to the charitable organization, no deduction will be allowed.

Example (2). C transfers a tract of land to a city government for as long as the land is used by the city for a public park. If on the date of gift the city does plan to use the land for a public park and the possibility that the city will not use the land for a public park is so remote as to be negligible, a deduction will be allowed.

(c) *Transfers of partial interests in property—(1) Disallowance of deduction.* If a donor transfers an interest in property after July 31, 1969, for charitable purposes and an interest in the same property is retained by the donor, or is transferred or has been transferred for private purposes after such date (for less than an adequate and full consideration in money or money's worth), no deduction is allowed under section 2522 for the value of the interest which is transferred or has been transferred for charitable purposes unless the interest in property is a deductible interest described in subparagraph (2) of this paragraph. The principles that are used in applying section 2523 and the regulations thereunder shall apply for purposes of determining under this subparagraph whether an interest in property is retained by the donor, or is transferred or has been transferred by the donor. If, however, as of the date of the gift, a retention of an interest by a donor, or a transfer for a private purpose, is dependent upon the performance of some act or the happening of a precedent event in order that it may become effective, an interest in property will be considered retained by the donor, or transferred for a private purpose, unless the possibility of occurrence of such act or event is so remote as to be negligible. The application of this subparagraph may be illustrated by the following examples, in each of which it is assumed that the property interest which is transferred for private purposes is not transferred for an adequate and full consideration in money or money's worth:

Example (1). In 1973, H creates a trust which is to pay the income of the trust to W for her life, the reversionary interest in the trust being retained by H. In 1975, H gives the reversionary interest to charity, while W is still living. For purposes of this subparagraph, interests in the same property have been transferred by H for charitable purposes and for private purposes.

Example (2). In 1973, H creates a trust which is to pay the income of the trust to W for her life and upon termination of the life estate to transfer the remainder to S. In 1975, S gives his remainder interest to charity, while W is still living. For purposes of this subparagraph, interests in the same property have not been transferred by H or S for charitable purposes and for private purposes.

Example (3). H transfers Blackacre to A by gift, reserving the right to the rentals of Blackacre for a term of 20 years. After 4 years H transfers the right to the remaining rentals to charity. For purposes of this subparagraph the term "property" refers to Blackacre, and the right to rentals from Blackacre consist of an interest in Blackacre. An interest in Blackacre has been transferred

by H for charitable purposes and for private purposes.

Example (4). H transfers property in trust for the benefit of A and a charity. An annuity of $5,000 a year is to be paid to charity for 20 years. Upon termination of the 20-year term the corpus is to be distributed to A if living. However, if A should die during the 20-year term, the corpus is to be distributed to charity upon termination of the term. An interest in property has been transferred by H for charitable purposes. In addition, an interest in the same property has been transferred by H for private purposes unless the possibility that A will survive the 20-year term is so remote as to be negligible.

Example (5). H transfers property in trust, under the terms of which an annuity of $5,000 a year is to be paid to charity for 20 years. Upon termination of the term, the corpus is to pass to such of A's children and their issue as A may appoint. However, if A should die during the 20-year term without exercising the power of appointment, the corpus is to be distributed to charity upon termination of the term. Since the possible appointees include private persons, an interest in the corpus of the trust is considered to have been transferred by H for private purposes.

(2) *Deductible interests.* A deductible interest for purposes of subparagraph (1) of this paragraph is a charitable interest in property where—

(i) *Undivided portion of donor's entire interest.* The charitable interest is an undivided portion, not in trust, of the donor's entire interest in property. An undivided portion of a donor's entire interest in property must consist of a fraction or percentage of each and every substantial interest or right owned by the donor in such property and must extend over the entire term of the donor's interest in such property and in other property into which such property is converted. For example, if the donor gave a life estate in an office building to his wife for her life and retained a reversionary interest in the office building, the gift by the donor of one-half of that reversionary interest to charity while his wife is still alive will not be considered the transfer of a deductible interest; because an interest in the same property has already passed from the donor for private purposes, the reversionary interest will not be considered the donor's entire interest in the property. If, on the other hand, the donor has been given a life estate in Blackacre for the life of his wife and the donor had no other interest in Blackacre on or before the time of gift, the gift by the donor of one-half of that life estate to charity would be considered the transfer of a deductible interest; because the life estate would be considered the donor's entire interest in the property, the gift would be of an undivided portion in such entire interest. An undivided portion of a donor's entire interest in property includes an interest in property whereby the charity is given the right, as a tenant in common with the donor, to possession, dominion, and control of the property for a portion of each year appropriate to its interest in such property. However, for purposes of this subdivision, a charitable contribution in perpetuity of an interest in property not in trust where the donor transfers some specific rights and retains other substantial rights will not be considered a contribution of an undivided portion of the donor's entire interest in property. Thus, for example, a deduction is not allowable for the value of an immediate and perpetual gift not in trust of an interest in original historic motion picture films to a charitable organization where the donor retains the exclusive right to make reproductions of such films and to exploit such reproductions commercially. A gift of an open space easement in gross in perpetuity shall be considered a gift of an undivided portion of the donor's entire interest in property. For a definition of an open space easement in gross in perpetuity, see § 1.170A–7(b)(1)(ii) of this chapter (Income Tax Regulations).

(ii) *Remainder interest in a personal residence.* The charitable interest is an irrevocable remainder interest, not in trust, in a personal residence. Thus, for example, if the donor gives to charity a remainder interest in a personal residence and retains an estate in such property for life or a term of years the value of such remainder interest is deductible under section 2522. For purposes of this subdivision, the term "personal residence" means any property which is used by the donor as his personal residence even though it is not used as his principal residence. For example, a donor's vacation home may be a personal residence for purposes of this subdivision. The term "personal residence" also includes stock owned by the donor on the date of gift as a tenant-stockholder in a cooperative housing corporation (as those terms are defined in section 216(b)(1) and (2)) if the dwelling which the donor is entitled to occupy as such stockholder is used by him as his personal residence.

(iii) *Remainder interest in a farm.* The charitable interest is an irrevocable remainder interest, not in trust, in a farm. Thus, for example, if the donor gives to charity a remainder interest in a farm and retains an estate in such property for life or a term of years, the value of such remainder interest is deductible under section 2522. For purposes of this subdivision, the term "farm" means any land used by the donor or his tenant for the production of crops, fruits, or other agricultural products or for the sustenance of livestock. The term "livestock" includes cattle, hogs, horses, mules, donkeys, sheep, goats, captive fur-bearing animals, chickens, turkeys, pigeons, and other poultry. A farm includes the improvements thereon.

(iv) *Charitable remainder trust and pooled income funds.* The charitable interest is a remainder interest in a trust which is a charitable remainder annuity trust, as defined in section 664(d)(1) and § 1.664–2 of this chapter; a charitable remainder unitrust, as defined in section 664(d)(2) and (3) and § 1.664–3 of this chapter; or a pooled income fund, as defined in section 642(c)(5) and § 1.642(c)–5 of this chapter. The charitable organization to or for the use of which the remainder interest is transferred must meet the requirements of both section 2522 (a) or (b) and section 642(c)(5)(A), section 664(d)(1)(C), or section 664(d)(2)(C), whichever applies. For example, the charitable organization to which the remainder interest in a charitable remainder annuity trust is transferred may not be a foreign corporation.

(v) *Guaranteed annuity interest.* (a) The charitable interest is a guaranteed annuity interest, whether or not such interest is in trust. For purposes of this subdivision (v), the term "guaranteed annuity interest" means an irrevocable right pursuant to the instrument of transfer to receive a guaranteed annuity. A guaranteed annuity is an arrangement under which a determinable amount is paid periodically, but not less often than annually, for a specified term or for the life or lives of a named individual or individuals, each of whom must be living at the date of the gift and can be ascertained at such date. For example, the annuity may be paid for the life of A plus a term of years. An amount is determinable if the exact amount which must be paid under the conditions specified in the instrument of transfer can be ascertained as of the date of gift. For example, the amount to be paid may be a stated sum for a term, or for the life of an individual, at the expiration of which it may be changed by a specified amount, but it may not be redetermined by reference to a fluctuating index such as the cost of living index. In further illustration, the amount to be paid may be expressed as a fraction or percentage of the cost of living index on the date of gift.

(*b*) A charitable interest is a guaranteed annuity interest only if it is a guaranteed annuity interest in every respect. For example, if the charitable interest is the right to receive from a trust each year a payment equal to the lesser of a sum certain or a fixed percentage of the net fair market value of the trust assets, determined annually, such interest is not a guaranteed annuity interest.

(*c*) Where a charitable interest in the form of a guaranteed annuity interest is not in trust, the interest will be considered a guaranteed annuity interest only if it is to be paid by an insurance company or by an organization regularly engaged in issuing annuity contracts.

(*d*) Where a charitable interest in the form of a guaranteed annuity interest is in trust, the governing instrument of the trust may provide that income of the trust which is in excess of the amount required to pay the guaranteed annuity interest shall be paid to or for the use of a charity. Nevertheless, the amount of the deduction under section 2522 shall be limited to the fair market value of the guaranteed annuity interest as determined under paragraph (d)(2)(iv) of this section.

(*e*) Where a charitable interest in the form of a guaranteed annuity interest is in trust and the present value on the date of gift of all income interests for a charitable purpose exceeds 60 percent of the aggregate fair market value of all amounts in such trust (after the payment of liabilities), the charitable in-

terest will not be considered a guaranteed annuity interest unless the governing instrument of the trust prohibits both the acquisition and the retention of assets which would give rise to a tax under section 4944 if the trustee had acquired such assets. The requirement in this (e) for a prohibition in the governing instrument against the retention of assets which would give rise to a tax under section 4944 if the trustee had acquired the assets shall not apply to a gift made on or before May 21, 1972.

(f) Where a charitable interest in the form of a guaranteed annuity interest is in trust, and the gift of such interest is made after May 21, 1972, the charitable interest will not be considered a guaranteed annuity interest if any amount other than an amount in payment of a guaranteed annuity interest may be paid by the trust for a private purpose before the expiration of all the income interests for a charitable purpose, unless such amount for a private purpose is paid from a group of assets which, pursuant to the governing instrument of the trust, are devoted exclusively to private purposes and to which section 4947(a)(2) is inapplicable by reason of section 4947 (a)(2)(B). The exception in the immediately preceding sentence with respect to any guaranteed annuity for a private purpose shall apply only if the obligation to pay the annuity for a charitable purpose begins as of the date of creation of the trust and the obligation to pay the guaranteed annuity for a private purpose does not precede in point of time the obligation to pay the annuity for a charitable purpose and only if the governing instrument of the trust does not provide for any preference or priority in respect of any payment of the guaranteed annuity for a private purpose as opposed to any payment of any annuity for a charitable purpose. For purposes of this (f), an amount is not paid for a private purpose if it is paid for an adequate and full consideration in money or money's worth. See § 53.4947–1(c) of this chapter (Foundation Excise Tax Regulations) for rules relating to the inapplicability of section 4947(a)(2) to segregated amounts in a split-interest trust.

(g) For rules relating to certain governing instrument requirements and to the imposition of certain excise taxes where the guaranteed annuity interest is in trust and for rules governing payment of private income interests by a split-interest trust, see section 4947(a)(2) and (b)(3)(A), and the regulations thereunder.

(vi) *Unitrust interest.* (a) The charitable interest is a unitrust interest, whether or not such interest is in trust. For purposes of this subdivision (vi), the term "unitrust interest" means an irrevocable right pursuant to the instrument of transfer to receive payment, not less often than annually, of a fixed percentage of the net fair market value, determined annually, of the property which funds the unitrust interest. In computing the net fair market value of the property which funds the unitrust interest, all assets and liabilites shall be taken into account without regard to whether particular items are taken into acount in determining the income from the property. The net fair market value of the property which funds the unitrust interest may be determined on any one date during the year or by taking the average of valuations made on more than one date during the year, provided that the same valuation date or dates and valuation methods are used each year. Where the charitable interest is a unitrust interest to be paid by a trust and the governing instrument of the trust does not specify the valuation date or dates, the trustee shall select such date or dates and shall indicate his selection on the first return on Form 1041 which the trust is required to file. Payments under a unitrust interest may be paid for a specified term or for the life or lives of an individual or individuals, each of whom must be living at the date of the gift and can be ascertained at such date. For example, the unitrust interest may be paid for the life of A plus a term of years.

(b) A charitable interest is a unitrust interest only if it is a unitrust interest in every respect. For example, if the charitable interest is the right to receive from a trust each year a payment equal to the lesser of a sum certain or a fixed percentage of the net fair market value of the trust assets, determined annually, such interest is not a unitrust interest.

(c) Where a charitable interest in the form of a unitrust interest is not in trust, the interest will be considered a unitrust interest only if it is to be paid by an insurance company or by an organization regularly engaged in issuing interests otherwise meeting the requirements of a unitrust interest.

(d) Where a charitable interest in the form of a unitrust interest is in trust, the governing instrument of the trust may provide that income of the trust which is in excess of the amount required to pay the unitrust interest shall be paid to or for the use of a charity. Nevertheless, the amount of the deduction under section 2522 shall be limited to the fair market value of the unitrust interest as determined under paragraph (d)(2)(v) of this section.

(e) Where a charitable interest in the form of a unitrust interest is in trust, the charitable interest will not be considered a unitrust interest if any amount other than an amount in payment of a unitrust interest may be paid by the trust for a private purpose before the expiration of all the income interests for a charitable purpose, unless such amount for a private purpose is paid from a group of assets which, pursuant to the governing instrument of the trust, are devoted exclusively to private purposes and to which section 4947(a)(2) is inapplicable by reason of section 4947(a)(2)(B). The exception in the immediately preceding sentence with respect to any unitrust interest for a private purpose shall apply only if the obligation to pay the unitrust interest for a charitable purpose begins as of date of creation of the trust and the obligation to pay the unitrust interest for a private purpose does not precede in point of time the obligation to pay the unitrust interest for a charitable purpose and only if the governing instrument of the trust does not provide for any preference or priority in respect of any payment of the unitrust for a private purpose as opposed to any payments of any unitrust for a charitable purpose. For purposes of this (e), an amount is not paid for a private purpose if it is paid for an adequate and full consideration in money or money's worth. See § 53.4947–1(c) of this chapter (Foundation Excise Tax Regulations) for rules relating to the inapplicability of section 4947(a)(2) to segregated amounts in a split-interest trust.

(f) For rules relating to certain governing instrument requirements and to the imposition of certain excise taxes where the unitrust interest is in trust and for rules governing payment of private income interests by a split-interest trust, see sections 4947(a)(2) and (b)(3)(A), and the regulations thereunder.

(d) *Valuation of charitable interest*—(1) *In general.* The amount of the deduction in the case of a contribution of a partial interest in property to which this section applies is the fair market value of the partial interest on the date of gift. The fair market value of an annuity, life estate, term for years, remainder, reversion or unitrust interest is its present value.

(2) *Certain transfers after July 31, 1969.* In the case of a transfer after July 31, 1969, of an interest described in subdivision (iv), (v), or (vi) of paragraph (c)(2) of this section, the present value of such interest is to be determined under the following rules:

(i) The present value of a remainder interest in a charitable remainder annuity trust is to be determined under § 1.664–2(c) of this chapter (Income Tax Regulations).

(ii) The present value of a remainder interest in a charitable remainder unitrust is to be determined under § 1.664–4 of this chapter.

(iii) The present value of a remainder interest in a pooled income fund is to be determined under § 1.642(c)–6 of this chapter.

(iv) The present value of a guaranteed annuity interest described in paragraph (c)(2)(v) of this section is to be determined under § 25.2512–9 except that, if the annuity is issued by a company regularly engaged in the sale of annuities, the present value is to be determined under § 25.2512–6. If by reason of all the conditions and circumstances surrounding a transfer of an income interest in property in trust it appears that the charity may not receive the beneficial enjoyment of the interest, a deduction will be allowed under section 2522 only for the minimum amount it is evident the charity will receive.

Example (1). In 1975, B transfers $20,000 in trust with the requirement that a designated charity be paid a guaranteed annuity

interest (as defined in paragraph (c)(2)(v) of this section) of $4,100 a year, payable annually at the end of each year for a period of 6 years and that the remainder be paid to his children. The fair market value of an annuity of $4,100 a year for a period of 6 years is $20,160.93 ($4,100 x 4.9173), as determined under Table B in § 25.2512–9(f). The deduction with respect to the guaranteed annuity interest will be limited to $20,000, which is the minimum amount it is evident the charity will receive.

Example (2). In 1975, C transfers $40,000 in trust with the requirement that D, an individual, and X Charity be paid simultaneously guaranteed annuity interests (as definied in paragraph (c)(2)(v) of this section) of $5,000 a year each, payable annually at the end of each year, for a period of 5 years and that the remainder be paid to C's children. The fair market value of two annuities of $5,000 each a year for a period of 5 years is $42,124 ([$5,000 x 4.2124] x 2), as determined under Table B in § 25.2512–9(f). The trust instrument provides that in the event the trust fund is insufficient to pay both annuities in a given year, the trust fund will be evenly divided between the charitable and private annuitants. The deduction with respect to the charitable annuity will be limited to $20,000, which is the minimum amount it is evident the charity will receive.

Example (3). In 1975, D transfers $65,000 in trust with the requirement that a guaranteed annuity interest (as defined in paragraph (c)(2)(v) of this section) of $5,000 a year, payable annually at the end of each year, be paid to Y Charity for a period of 10 years and that a guaranteed annuity interest (as defined in paragraph (c)(2)(v) of this section) of $5,000 a year, payable annually at the end of each year, be paid to W, his wife, age 62 for life. The annuities are to be paid simultaneously, and the remainder is to be paid to D's children. The fair market value of the private annuity is $33,877 ($5,000 x 6.7754), as determined pursuant to § 25.2512–9(e) and by the use of factors involving one life and a term of years as published in Publication 723A (12–70). The fair market value of the charitable annuity is $36,800.50 ($5,000 x 7.3601), as determined under Table B in § 25.2512–9(f). It is not evident from the governing instrument of the trust or from local law that the trustee would be required to apportion the trust fund between the wife and charity in the event the fund were insufficient to pay both annuities in a given year. Accordingly, the deduction with respect to the charitable annuity will be limited to $31,123 ($65,000 less $33,877 [the value of the private annuity]), which is the minimum amount it is evident the charity will receive.

Example (4). In 1975, E transfers $75,000 in trust with the requirement that an annuity of $5,000 a year, payable annually at the end of each year, be paid to B, an individual, for a period of 5 years and thereafter an annuity of $5,000 a year, payable annually at the end of each year, be paid to M Charity for a period of 5 years. The remainder is to be paid to C, an individual. No deduction is allowed under section 2522(a) with respect to the charitable annuity because it is not a "guaranteed annuity interest" within the meaning of paragraph (c)(2)(v)(e) of this section.

(v) The present value of a unitrust interest described in paragraph (c)(2)(vi) of this section is to be determined by subtracting the present value of all interests in the transferred property other than the unitrust interest from the fair market value of the transferred property.

(3) *Other transfers.* The present value of an interest not described in subparagraph (2) of this paragraph is to be determined under § 25.2512–5 in the case of transfers before January 1, 1971, or under § 25.2512–9 in the case of transfers after December 31, 1970.

(4) *Special computations.* If the interest transferred is such that its present value is to be determined by a special computation, a request for a special factor, accompanied by a statement of the date of birth and sex of each individual the duration of whose life may affect the value of the interest, and by copies of the relevant instruments, may be submitted by the donor to the Commissioner who may, if conditions permit, supply the factor requested. If the Commissioner furnishes the factor, a copy of the letter supplying the factor must be attached to the tax return in which the deduction is claimed. If the Commissioner does not furnish the factor, the claim for deduction must be supported by a full statement of the computation of the present value made in accordance with the principles set forth in this paragraph.

(e) *Effective date.* This section applies only to gifts made after July 31, 1969.

PAR. 12. The following new section is inserted immediately after § 25.2522(d):

§ 25.2522(d)–1 Additional cross references.

(a) See section 14 of the Wild and Scenic Rivers Act (Public Law 90–542, 82 Stat. 918) for provisions relating to the claim and allowance of the value of certain easements as a gift under section 2522.

(b) For treatment of gifts accepted by the Secretary of State or the Secretary of Commerce, for the purpose of organizing and holding an international conference to negotiate a Patent Corporation Treaty, as gifts to or for the use of the United States, see section 3 of Joint Resolution of December 24, 1969 (Public Law 91–160, 83 Stat. 443).

(c) For treatment of gifts accepted by the Secretary of the Department of Housing and Urban Development, for the purpose of aiding or facilitating the work of the Department, as gifts to or for the use of the United States, see section 7(k) of the Department of Housing and Urban Development Act (42 U.S.C. 3535), as added by section 905 of Public Law 91–609 (84 Stat. 1809).

(d) For treatment of certain property accepted by the Chairman of the Administrative Conference of the United States, for the purpose of aiding and facilitating the work of the Conference, as gifts to the United States, see 5 U.S.C. 575(c)(12), as added by section 1(b) of the Act of October 21, 1972 (Public Law 92–526, 86 Stat. 1048).

(e) For treatment of the Board for International Broadcasting as a corporation described in section 2522(a)(2), see section 7 of the Board for International Broadcasting Act of 1973 (Public Law 93–129, 87 Stat. 459).

[FR Doc.74–15899 Filed 7–10–74;8:45 am]

Title 7—Agriculture

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

[Apricot Reg. 14]

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Limitation of Shipments

This regulation specifies the grade, maturity and size requirements for Washington Apricots during the remainder of the 1974 season. Apricots would be required to grade at least Washington No. 1, be reasonably uniform in color and measure at least 1⅝ inches in diameter, except Blenheim, Blenril and Tilton varieties, in unlidded containers, may have a minimum diameter of 1¼ inches. These requirements are designed to provide consumers with an ample supply of acceptable quality apricots.

Notice was published in the FEDERAL REGISTER issue of June 17, 1974, (39 FR 20979) that the Department was giving consideration to a proposal which would limit the handling of apricots grown in designated counties in Washington by establishing regulations, pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 922, as amended (7 CFR Part 922) regulating the handling of apricots grown in designated counties in Washington. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

This action reflects the Department's appraisal of the need for regulation based on the current and prospective market conditions. Total 1974 fresh market shipments are expected to be 2,100 tons, compared with 2,575 tons in 1973. The regulation is designed to prevent the handling on and after August 1, 1974, of lower quality and smaller size apricots which do not provide consumer satisfaction and to promote orderly marketing in the interest of producers and consumers, consistent with the objectives of the act.

Apricots of the Moorpark variety shipped in open containers are required to be generally well matured. Provision is made for apricots of the Blenheim, Blenril and Tilton varieties to be of a smaller size when packed in unlidded containers. These three varieties are of a somewhat smaller size than other varieties when mature. There is a demand for fruit meeting the foregoing specifications in local markets. Due to the nearness to the source of supply, shipment of more mature fruit and fruit of the specified varieties of smaller sizes in less expensive unlidded containers is feasible and the disposition of such fruit in such markets tend to improve the overall returns to growers. Individual shipments, not exceeding 500 pounds of apricots sold for home use and not for resale are exempt from regulation because such shipments do not materially affect the demand in commercial channels. Such shipments would be prevented from entering regulated channels of trade by the

requirement that each container therein be stamped with the words "not for resale" in letters at least one-half inch in height.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of such apricots will be in progress at the effective date hereof and this regulation should be applicable to all such shipments in order to effectuate the declared policy of the act; (2) notice of proposed rule-making concerning this regulation, with an effective date as hereinafter specified, was published in the FEDERAL REGISTER (39 FR 20979), and no objection to this regulation or such effective date was received; and (3) compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 922.314 Apricot Regulation 14.

(a) During the period August 1, 1974, through July 31, 1975, no handler shall handle any container of apricots unless such apricots meet the following applicable requirements, or are handled in accordance with subparagraph (3) of this paragraph:

(1) *Minimum grade and maturity requirements.* Such apricots grade not less than Washington No. 1 and are at least reasonably uniform in color: *Provided,* That such apricots of the Moorpark variety in open containers shall be generally well matured; and

(2) *Minimum size requirements.* Such apricots measure not less than 1⅝ inches in diameter except that apricots of the Blenheim, Blenril, and Tilton varieties when packed in unlidded containers may measure not less than 1¼ inches: *Provided,* That not more than 10 percent, by count, of such apricots may fail to meet the applicable minimum diameter requirement.

(3) Notwithstanding any other provision of this section, any individual shipment of apricots which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 922.41 (Assessments), and of § 922.55 (Inspection and Certification):

(i) The shipment consists of apricots sold for home use and not for resale.

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight, of apricots; and

(iii) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(b) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; "diameter" and "Washington No. 1" shall have the same meaning as when used in the State of Washington Department of Agriculture Standards for Apricots, effective May 31, 1966; "reasonably uniform in color" means that the apricots in the individual container do not show sufficient variation in color to materially affect the general appearance of the apricots; and "generally well matured" means that, with respect to not less than 90 percent, by count, of the apricots in any lot of containers, and not less than 85 percent of the surface area of the fruit is at least as yellow as Shade 3 on the U.S. Department of Agriculture Standard Ground Color Chart of Apples and Pears in the Western States.

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

Dated: July 8, 1974.

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

[FR Doc.74–15932 Filed 7–10–74;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 73—SCABIES IN CATTLE

Areas Quarantined or Released

These amendments quarantine a portion of Bailey County in Texas because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the area quarantined.

The amendments release a portion of Curry County, New Mexico and a portion of Sheridan County in Kansas from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, will not apply to the excluded areas, but the restrictions pertaining to the interstate movement of cattle from nonquarantined areas contained in said Part 73 will apply to the excluded areas. No areas remain under quarantine in New Mexico or Kansas.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies is hereby amended as follows:

In § 73.1a, paragraph (c) relating to the State of New Mexico and paragraph (d) relating to the State of Kansas are deleted and paragraph (a) relating to the State of Texas is amended to read:

§ 73.1a Notice of quarantine.

(a) Notice is hereby given that cattle in certain portions of the State of Texas are affected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following areas in such State are hereby quarantined because of said disease:

(1) That portion of Castro County comprised of sections 1 through 4, Block 0–7, Abstract No. 999 through 1002 (G. W. Irwin Survey).

(2) That portion of Bailey County comprised of sections 15, 16, 17 and 18 of Block W, Edward K. Warren Subdivision.

* * * * *

(Sec. 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, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

Effective date: The foregoing amendments shall become effective July 5, 1974.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of cattle scabies, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as the amendments relieve restrictions, they are no longer deemed necessary to prevent the spread of cattle scabies and they should be made effective promptly in order to be of maximum benefit to affected persons. 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 amendments are impracticable and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 5th day of July 1974.

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

[FR Doc.74–15825 Filed 6–10–74;8:45 am]

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

Area Released From Quarantine

This amendment excludes a portion of Comal County in Texas from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. 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 not apply to the excluded

area. No areas in the continental United States remain under quarantine.

Accordingly, 9 CFR Part 82 is hereby amended in the following respect:

§ 82.3 [Amended]

In § 82.3, paragraph (a)(1) relating to the State of Texas is deleted.

(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 July 8, 1974.

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. 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 unnecessary, 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 8th day of July 1974.

HARRY C. MUSSMAN,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74–15926 Filed 7–10–74;8:45 am]

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS; ORGANISMS AND VECTORS

PART 113—STANDARD REQUIREMENTS

Miscellaneous Amendments

Pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158), Subchapter E, Chapter 1 of Title 9 of the Code of Federal Regulations is amended by redesignating specified sections in Part 113 to permit the addition of new sections to Part 113 in an orderly arrangement.

Also, these amendments would change the word "released" as used in the third line of § 113.5(e) to "tested" for clarification. Any substantive change if any, would be to relax the requirements.

1. Sections 113.65, 113.66, and 113.67 under the center heading of "Diagnostics and Reagents" are redesignated as three new sections 113.200, 113.201, and 113.202, respectively, to read:

DIAGNOSTICS AND REAGENTS

Sec.
113.200 Tuberculin, Intradermic.
* * * * *
113.201 Pullorum Antigen.
* * * * *
113.202 Avian Mycoplasma Antigen.
* * * * *

2. Sections 113.75, 113.76, 113.77, 113.78, 113.79, and 113.80 under the center heading "Blood Origin Products" are redesignated as six new sections 113.250, 113.251, 113.252, 113.253, 113.254 and 113.255, respectively, to read:

BLOOD ORIGIN PRODUCTS

Sec.
113.250 General requirements for biological products of animal blood origin.
* * * * *
113.251 Tetanus Antitoxin.
* * * * *
113.252 Swine Erysipelas Antiserum.
* * * * *
113.253 Canine Distemper-Hepatitis-Leptospira Antiserum.
* * * * *
113.254 Clostridium Perfringens Type C Antitoxin.
* * * * *
113.255 Clostridium Perfringens Type D Antitoxin.
* * * * *

3. Sections 113.110, 113.111, and 113.112 under the center heading of "Live Bacterial Products" are redesignated as sections 113.65, 113.66, and 113.67, respectively, to read:

LIVE BACTERIAL VACCINES

Sec.
113.65 Brucella Abortus Vaccine.
* * * * *
113.66 Anthrax Spore Vaccine.
* * * * *
Sec.
113.67 Erysipelas Vaccine.
* * * * *

4. Sections 113.68–113.84 and 113.105–113.119 are reserved to read:

Sec.
113.68–113.84 [Reserved]
* * * * *
113.105–113.119 [Reserved]
* * * * *

5. Section 113.5(e) is revised to read:

(e) When new test methods are developed and approved by Veterinary Services, biological products tested thereafter shall be evaluated by such methods, and if not found to be satisfactory when so tested shall not be released.

These amendments are administrative and make no substantive changes in the affected regulations.

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

The foregoing amendments shall become effective upon issuance.

Done at Washington, D.C. this 8th day of July 1974.

HARRY C. MUSSMAN,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74–15927 Filed 7–10–74;8:45 am]

Title 10—Energy

CHAPTER I—ATOMIC ENERGY COMMISSION

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

Special Curie Definitions and Concentration Values in Air and Water for Uranium and Thorium

Correction

In FR Doc. 74–14866 appearing at page 23990 in the issue for Friday, June 28, 1974, make the following changes:

1. On page 23990, in the table in Appendix B, under the column headed "Element (atomic number)", both entries should read as set forth below:

* * *
Thorium (90)
* * *
Uranium (92)
* * *

2. On page 23990, in the third column immediately under the table in Appendix B, the first two lines should read as set forth below:

$SA = 3.6 \times 10^{-7}$ curies/gram U	U-depleted
$SA = (0.4 + 0.38E + 0.0034E^2)\ 10^{-6}$	$E \geq 0.72$

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

FEA Forms 1000 and 1001

The Federal Energy Administration is currently revising its forms to reflect regulatory changes since the existing forms were issued. FEA will publish the revised forms in the FEDERAL REGISTER to make information concerning the forms available on the widest possible basis as soon as practicable.

FEO Forms 1000 and 1001 have been revised and are published herewith as Appendix A to Part 211.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159; Federal Energy Administration Act of 1974, Pub. L. 93–275, E.O. 11790, 39 FR 23185)

In consideration of the foregoing 10 CFR Chapter II is amended by adding Appendix A to Part 211 as set forth herein, effective immediately.

Issued in Washington, D.C., July 3, 1974.

ROBERT E. MONTGOMERY, Jr.,
Acting General Counsel, Federal Energy Administration.

APPENDIX A

FORMS AND INSTRUCTIONS

Form Approved OMB 158-R0004

FEDERAL ENERGY OFFICE

PRIME SUPPLIERS MONTHLY REPORT

FEO-1000
INSTRUCTIONS

I. PURPOSE

Form FEO-1000 provides the means by which prime suppliers report pursuant to 10 CFR §211.222(b).

Form FEO-1000 is designed to provide summary data regarding product supply in the State during the month immediately preceding the month in which the report is submitted (the "report month"), and detailed data on estimated product availability within the State, during the month following the report month.

II. WHO MUST SUBMIT

Form FEO-1000 must be filed by every prime supplier of any product subject to a State set-aside. A prime supplier is the supplier (or producer in the case of propane) which makes the first sale of an allocated product subject to State set-aside into the State distribution system *for consumption within the State*. Transactions which occur for transshipment only are excluded.

III. TO WHOM

Prime suppliers must file Form FEO-1000 and attachments that may be required as follows:

Two copies to:

FEDERAL ENERGY OFFICE
Code 2890
Washington, D.C. 20461

One copy each to the appropriate:

FEO Regional Office (see attached list)
State Office of Petroleum Allocation (see attached list)

IV. WHEN

A prime supplier must file Form FEO-1000 each month. A separate Form FEO-1000 must be submitted for each State for which the supplier is a prime supplier. The report must be delivered to the specified addresses at least 10 calendar days before the end of the month (§ 211.222(b)).

V. DEFINITIONS

A **"prime supplier"** is the supplier (or "producer" as defined under the propane allocation program) which makes the first sale of any quantity of any allocated product subject to a State set-aside into the State distribution system of any State for consumption within the State.

"State set-aside" is the amount of an allocated product which is reserved from the total supply of each prime supplier with respect to any State, for utilization by that State to resolve emergencies and hardships due to fuel shortages. State set-asides are reserved from the total supply for the following allocated products at the percentage levels indicated:

Propane, 3%
Motor Gasoline, 3%
Middle distillate, 4%
Residual fuel oils, except for utility use and as bunker fuel for maritime shipping, 3%

A **"Refiner"** means a firm that owns, operates, or controls the operations of one or more refineries.

A **"Refinery"** means an industrial plant, regardless of capacity, which processes crude oil feedstock and manufactures refined petroleum products, except when such plant is a petrochemical plant.

"Importer" means the firm—excluding the Department of Defense—which owns at the first place of storage in the United States, any allocated product or crude oil brought into the United States.

As used herein, a "gas processing plant operator" means a firm that owns, operates, or controls the operation of one or more gas processing plants.

"Gas processing plant" means a facility which recovers ethane, propane, butane and/or other natural gas products by a process of absorption, adsorption, compression, refrigeration cycling, or a combination of such processes, from mixtures of hydrocarbon that existed in a reservoir.

VI. SPECIFIC INSTRUCTIONS

The prime supplier must complete Form FEO-1000 as specified below. The entries required by Item 1 of the form are repeated at the top of page 2 for data processing purposes. These include: whether the report is original or a revision of an earlier report; the state which the report covers; the date of the report; the "EIN" (IRS Employer Identification Number); and the supplier's Zip Code.

Item No. 1

(a) Check the applicable box at Item 1(a) to indicate whether the submission is a revision to a previously submitted FEO-1000 (Rev. 5-74). If the report is the initial report for the report month, the box labeled "Original" should be checked. If, however, a report has already been submitted for the report month and this report is a revision of the initial report, the entry titled "Revision to Report Dated _____" should be completed, including the exact date of the earlier report.

(b) In "Date of Report" Item 1(b), enter the *exact date on which this report is completed, by month, day and year* (for example, May 19, 1974).

(c) Enter the name of the State to which the report pertains in Item 1(c).

(d) Enter the prime supplier's "EIN" (IRS Employer Identification Number) in Item 1(d).

(e) Enter prime supplier's Postal Service ZIP code in Item 1(e).

Item No. 2: REPORTING PRIME SUPPLIER IDENTIFICATION INFORMATION

(a) Enter name of the reporting prime supplier in Item 2(a).

(b, c, d) Enter complete street number and name (or box/RFD number if appropriate), city and State in Items 2(b), (c) and (d).

(e, f) In Items 2 (e) and (f), provide the name and telephone number of a responsible person who can respond to inquiries concerning the submission.

Item No. 3: CLASSIFICATION

Check all appropriate boxes indicating classification of reporting prime supplier. Note that *all* classifications which describe the prime supplier should be checked (see definitions in Section V, above).

Item No. 4: DELIVERIES DURING PRECEDING MONTH AND DETAILED ESTIMATED SUPPLY DATA FOR FOLLOWING MONTH (1000's OF BARRELS)

Provide indicated data for *all* products. Items 4(a) through (r), for which the prime supplier makes the first sale into the State distribution system for consumption within the State (not just those subject to the State set-aside). Note that in addition to providing the indicated data for all motor gasoline in Item 4(b), the reporting firm is to report, in Item 4(c), that amount of its total gasoline (4(b)) for each State which is unleaded. The quantities entered in Columns (1) through (7), should be stated in thousands of barrels to three decimal places. For example:

1,234 barrels should be entered as "1.234";

970 barrels should be entered as "0.970";

Above Column (1), in the blank following the phrase, "Total Delivered during the preceding month of", enter the appropriate four-digit code (for example, if the "Date of this report" in Item (1) is May 19, 1974, the "preceding month" is April, 1974, and the entry should be "04-74").

In Column (1), "Total Delivered During the Preceding Month of _____," enter the total amount of each product for which the prime supplier made the first sale into the State distribution system for consumption within the State during the preceding month.

Above Columns (2) through (8), in the blank following the phrase, "Data for the following month of," enter the appropriate four-digit code (for example, if the "Date of this report" in Item (1) is May 19, 1974, the "following month" is June, 1974, and the entry should be "06-74").

In Column (2), "Total Supply" means for the following month that portion of the prime supplier's total supply as defined in FEO's regulations which the prime supplier will distribute in the State. Total supply for a product means the sum of the prime supplier's estimated production, including amounts received under processing and any reduction in inventory of that product made pursuant to § 211.22 of FEO's regulations except as otherwise ordered by FEO. Total supply is calculated *before* adjustments for State set-aside and allocation requirements not subject to an allocation fraction. Any existing inventory, or production, importation or purchase of product used to increase that inventory consistent with the provisions of § 211.22 shall not be included in total supply. In calculating total supply, any amounts supplied to customers through exchange agreements should not be included.

In Column (3), "State set-aside", enter the number which results from multiplying the amount entered under total supply (column (2)) by the appropriate FEO State set-aside percent for that product. For example, the State set-aside for motor gasoline is 3%; therefore, if the total supply shown in column 1 is 100,000, the figure "3,000" would be entered in column 2 (.03 × 100,000).

See the definition of "State set-aside" in section V, above.

In Column (4), "Amounts supplied under Allocations not subject to an Allocation Fraction", enter the amounts to be supplied in the State which are *not* subject to an allocation fraction (for example, for agricultural production or for Department of Defense Use). Detailed data concerning entries in Column (4) must be provided in Item 7, page 2.

In Column (5), "Allocable Supply", enter the amount that is the total supply (Column (2)), less amounts designated for the State set-aside (Column (3)), and less amounts to be supplied under allocation levels not subject to an allocation fraction (Column (4)).

In Column (6), "Supply Obligation", enter the amount of the prime supplier's supply obligation for a product as defined in 10 CFR § 211.10(b)(2) which is to be delivered within the State. A prime supplier's supply obligation for a product is the sum of the amounts of its wholesale purchaser-resellers' base period uses as adjusted pursuant to FEO's regulations, and the amounts of allocation requirements of end-users and wholesale-purchaser-consumers supplied by the prime supplier, but excluding those amounts to be supplied for use under an allocation level not subject to an allocation fraction.

In Column (7), "Excess or shortfall", enter the amount by which the allocable supply (Column (5)) of a product exceeds or is short of the supply obligation (Column (6)) of the product. For example, if the allocable supply of kerosene is 285,000 barrels (entered as 285.000 in Column (4)) and the supply obligation is 295,000 barrels (entered as 295.000 in Column (6)), the entry in Column (7) will be (–) 10.000 (285,000 – 295,000 = (–) 10,000 or a shortfall of 10,000 barrels. If the allocable supply of kerosene is 285,000 barrels (entered as 285.000 in Column (5)) and the supply obligation of kerosene is 280,000 barrels (entered as 280.000 in Column (6)) then the entry in Column (7) is 5.000 (285.000 – 280.000 = 5.000) or an excess of 5,000 barrels.

In Column (8), "Allocation Fraction", enter the number which results from dividing the amount entered under "Allocable Supply" (Column (5)) by the amount entered under "Supply Obligation" (Column (6)). For example, if the allocable supply is 100,000 barrels and the supply obligation is 125,000 barrels, the entry in Column (8) will be 100.000 divided by 125.000 or ".80".

If the resulting allocation fraction exceeds 1.0, this report may serve as the required notification to the Federal Office pursuant to (10 CFR 211.10(g)(2)). Form FEO-22 provides directions for the computation of the distribution of excess product when the supplier's allocation fraction exceeds 1.0 for that product.

Suppliers with two or more distribution subsystems or regions independent of one another may petition National FEO for permission to use multiple allocation fractions whenever use of a single allocation fraction would be impracticable or inconsistent with the objectives of the program.

Item No. 5: CERTIFICATION

Type the name and title of the individual who has signed the certification (Item 5(a)) and the date of signing (Item 5(c)). The individual who signs and certifies this Form FEO-1000 (Item 5(b)) must be the Chief Executive Officer of the Parent or such other executive officer authorized to sign for him for this purpose. In the latter case, the reporting firm must file with FEO a letter of authorization signed by the Chief Executive

Officer which identifies other officials authorized to certify forms for the firm. A sample format for this letter is available from any FEO Regional Office.

Item No. 6: AMOUNTS CERTIFIED FOR USE UNDER ALLOCATION LEVELS NOT SUBJECT TO AN ALLOCATION FRACTION (1,000's OF BARRELS)

Item 6 must be completed to provide data concerning any "Amounts Supplied under Allocations not Subject to an Allocation Fraction" reported in Column (4), Item 5, on page 1. Provide the indicated data for all products in Item 6(a), (b), and (d) through (q) in the appropriate, non-shaded boxes, in thousands of barrels to three decimal places. For example:

1,234 barrels should be entered as "1.234";
970 barrels should be entered as "0.970".

In Columns (1) and (2), enter amounts certified to or by the prime supplier for (1) agricultural production and (2) Department of Defense uses, respectively.

Entries may *NOT* be made in Columns (1) and (2) for #4 Fuel Oil for Utility Use (Code 510, Item 6(k)) or for #5, #6 Fuel Oils for Utility Use (Code 520, Item 6(l)).

Column (3), "Space heating", may be used *ONLY* for kerosenes (Code 310, Item 6(d)), No. 2 heating oil (Code 320, Item 6(e)) and residual fuel oils (Codes 530, 540, and 570 (Item 6(m), (n), and (q)).

Column (4), "For Utility Use", may be used *ONLY* for #4 Fuel Oil for Utility Use (Code 510, Item 6(k)), and for #5, #6 Fuel Oils for Utility Use (Code 520, Item 6(l)).

The amount shown under Column (5), "Total", for each product must agree with the amount shown for that product under "Amounts Supplied under Allocations not Subject to an Allocation Fraction" (Item 5, Column (4), and with the amounts shown for that product in Columns (1) through (4).

FEDERAL ENERGY OFFICE
PRIME SUPPLIER'S MONTHLY REPORT
FEO-1000

FOR FEO USE ONLY
FORM NO. 0 4
ACCESSION NO.
STATE CODE

1. a. This Report is (1) ☐ Original or (2) ☐ Revision to Report Dated _____ b. Date of this Report _____
c. Report for State of _____ d. Prime Supplier EIN [ ][ ][ ][ ][ ][ ][ ][ ][ ] e. Prime Supplier ZIP Code [ ][ ][ ][ ][ ]

2. REPORTING PRIME SUPPLIER IDENTIFICATION INFORMATION
a. Name _____
b. Street/Box/RFD _____ c. City _____ d. State _____
e. Name of Contact Official _____ f. Telephone Number (Including Area Code) ( ) – –

3. CLASSIFICATION OF REPORTING PRIME SUPPLIER (Check all applicable boxes):
a. ☐ Refiner b. ☐ Importer c. ☐ Gas Processing Plant Operator d. ☐ Other

4. DELIVERIES DURING PRECEDING MONTH AND DETAILED ESTIMATED SUPPLY DATA FOR FOLLOWING MONTH (IN 1,000's OF BARRELS)

PETROLEUM PRODUCTS	CODE	TOTAL DELIVERED DURING THE PRECEDING MONTH OF [000'S BBLS] (1)	DATA FOR THE FOLLOWING MONTH OF _____ (000'S BBLS.) TOTAL SUPPLY (2)	STATE SET-ASIDE AMOUNT (3)	AMOUNTS SUPPLIED UNDER ALLOCATIONS NOT SUBJECT TO ALLOCATION FRACTION* (4)	ALLOCABLE SUPPLY (Col. 2 – Col. 3 – Col. 4) (5)	SUPPLY OBLIGATION (6)	EXCESS SHORTFALL (Col. 5 – Col. 6) (7)	ALLOCATION FRACTION (Col. 5 / Col. 6) (8)
a. PROPANE	110								
b. MOTOR GASOLINE (TOTAL)	200								
c. UNLEADED MOTOR GASOLINE	220								
d. KEROSENE	310								
e. #2 HEATING OIL	320								
f. DIESEL FUEL	330								
g. OTHER MIDDLE DISTILLATES	340								
h. AVIATION GASOLINE	410								
i. KEROSENE-BASE JET FUEL	420								
j. NAPHTHA-BASE JET FUEL	430								
k. #4 FUEL OIL FOR UTILITY USE	510								
l. #5, #6 FUEL OILS FOR UTILITY USE	520								
m. #4 FUEL OIL FOR NON-UTILITY USE	530								
n. #5, #6 FUEL OILS FOR NON-UTILITY USE	540								
o. BUNKER C	550								
p. NAVY SPECIAL FUEL OIL	560								
q. OTHER RESIDUAL FUEL OILS	570								
r. CRUDE OIL (USED AS FUEL ONLY)	940								

*IF ANY DATA ARE ENTERED IN COLUMN 4, PAGE 2 MUST BE COMPLETED AND ATTACHED. (Continued on reverse side)

FEO-1000 (REV. 6-74)

5. CERTIFICATION. I certify that the information shown above and appended hereto (if any) is true and accurate to the best of my knowledge.

a. Name and Title of Certifying Official b. Signature c. Date of Certification

Title 18 USC 1001 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

FEO-1000 PAGE 2

FOR FEO USE ONLY

FORM NO. 0 2

ACCESSION NO.

STATE CODE

1. a. This Report is (1) ☐ Original or (2) ☐ Revision to Report Dated b. Date of this Report

c. Report for State of d. Prime Supplier EIN e. Prime Supplier ZIP Code

6. AMOUNTS CERTIFIED FOR USE UNDER ALLOCATION LEVELS NOT SUBJECT TO AN ALLOCATION FRACTION (1,000's OF BARRELS):

PETROLEUM PRODUCTS	CODE	FOR AGRICULTURAL PRODUCTION (1)	FOR DEPARTMENT OF DEFENSE USE (2)	FOR SPACE HEATING (3)	FOR UTILITY USES (4)	TOTAL* (Col. 1 + Col. 2 + Col. 3 + Col. 4) (5)
a. PROPANE	110					
b. MOTOR GASOLINE (TOTAL)	200					
c. UNLEADED MOTOR GASOLINE	220					
d. KEROSENE	310					
e. #2 HEATING OIL	320					
f. DIESEL FUEL	330					
g. OTHER MIDDLE DISTILLATES	340					
h. AVIATION GASOLINE	410					
i. KEROSENE-BASE JET FUEL	420					
j. NAPHTHA-BASE JET FUEL	430					
k. #4 FUEL OIL FOR UTILITY USE	510					
l. #5, #6 FUEL OILS FOR UTILITY USE	520					
m. #4 FUEL OIL FOR NON-UTILITY USE	530					
n. #5, #6 FUEL OILS FOR NON-UTILITY USE	540					
o. BUNKER C	550					
p. NAVY SPECIAL FUEL OIL	560					
q. OTHER RESIDUAL FUEL OILS	570					
r. CRUDE OIL (USED AS FUEL ONLY)	940					

*ALSO MUST EQUAL COLUMN (4), ITEM 5.

FEO-1000 (Rev. 6-74)

U.S. GOVERNMENT PRINTING OFFICE 1974 O - 590-723

Form Approved OMB [illegible]

FEDERAL ENERGY OFFICE
REFINER/IMPORTER/GAS PROCESSING PLANT OPERATOR
MONTHLY REPORT BY FACILITY

FEO-1001

INSTRUCTIONS

I. PURPOSE

Form FEO-1001 provides the means by which the monthly reporting requirements of 10 CFR § 211.222(a) are satisfied. (Form FEO-1000 provides the means by which prime suppliers report pursuant to 10 CFR § 211.222(b)).

Form FEO-1001 is designed to provide summary data regarding production and inventory for each facility of the reporting firm.

II. WHO MUST SUBMIT

The following are required to submit Form FEO-1001:

Refiners: a separate FEO-1001 must be filed by a refiner for each of its refineries.

Importers: a separate FEO-1001 must be filed by an importer for each of its importing terminals, with respect only to those allocated products or crude oil for which the importer was the "importer" as defined below in Section V.

Importers: a separate FEO-1000 must be filed by a refiner for each of its importing terminals.

Gas processing plant operators: a separate FEO-1001 must be filed by a gas processing plant operator for each of its gas processing plants.

Note: A facility reporting on Form FEO-1001 can be more than one type of facility for the purposes of this report. Such a facility must report separately for each such capacity in which it acts.

III. TO WHOM

The reporting firm must file two copies of Form FEO-1001 with:

Federal Energy Office
Code 2890
Washington, D.C. 20461

IV. WHEN

The reporting firm must file Form FEO-1001 every month, by the 10th day before the end of the month.

V. DEFINITIONS

A "Refiner" means a firm that owns, operates, or controls the operations of one or more refineries.

A "Refinery" means an industrial plant, regardless of capacity, which processes crude oil feedstock and manufactures refined petroleum products, except when such plant is a petrochemical plant.

"Importer" means the firm—excluding the Department of Defense—which owns at the first place of storage in the United States, any allocated product or crude oil brought into the United States.

As used herein, "importing terminal" means the first place of storage used by the importer (as defined above) of any allocated product or crude oil to store the allocated product or crude oil, regardless of whether the importer owns or operates the "importing terminal."

As used herein, a "gas processing plant operator" means a firm that owns, operates, or controls the operation of one or more gas processing plants.

"Gas processing plant" means a facility which recovers ethane, propane, butane and/or other natural gas products by a process of absorption, adsorption, compression, refrigeration cycling, or a combination of such processes, from mixtures of hydrocarbon that existed in a reservoir.

VI. SPECIFIC INSTRUCTIONS

The entries required by Items 1–4 and at the top of each page including "Date of This Report", reporting firm "EIN" (IRS Employer Identification Number), "Facility ZIP", and whether the report is the initial report for this facility for the month or a revision to the initial report are needed for computer processing. These entries must be completed on all pages as indicated.

Item No.1

(a) If the report is the initial report for this facility for the report month, check the box labeled "(1) Original". If, however, a report has already been submitted for the report month and this report is a revision of the original report, check the box labeled "(2) Revision to Report Dated _____" and enter the exact date of the initial report in the space provided.

(b) For the "Date of This Report" (Item No. 1(b)), enter the exact date on which this report is completed including full month, day and year (for example, May 19, 1974).

(c) Enter the reporting firm's IRS Employer Identification Number, in Item 1(c), "EIN".

(d) Enter the reporting facility's Postal Service Zip Code.

Item No. 2: REPORTING FIRM

(a) Enter the name of the reporting firm.

(b,c,d) Enter the complete street number and name (or box/RFD number, if appropriate), city and State in Items 2(b), (c), and (d).

(e,f) In Items 2(e) and (f), provide the name and telephone number of a responsible person who can respond to inquiries concerning the submission.

Item No. 3: REPORTING FACILITY

A separate report must be submitted for each facility. Item 3 provides the means of identifying the reporting facility. Enter the appropriate facility name, street address, city, state, and EIN.

Item No. 4: CLASSIFICATION OF REPORTING FACILITY

Check the box which indicates the classification of the *facility* to which the report pertains. Note that only one classification should be checked.

Item No. 5: DATA FOR PRECEDING MONTH

"Preceding month" means the month preceding the month during which the report is to be submitted. For example, if the "Date of This Report" (as given in Item 1) is May 19, 1974, then April, 1974, is the "preceding month".

(1-6) The quantities entered in Columns (1)-(6) should be stated in thousands of barrels to three decimal places (e.g., 1,234 barrels should be entered as "1.234"; 970 barrels should be entered as ".970").

Provide indicated data for *all* petroleum products for the specified facility.

(q) "All other outputs" (Code 800) includes all outputs not categorized in Codes 210 through 570, including unfinished products.

(s) "Natural gas liquids" (Code 950) include such substances as propane, normal butane, isobutane, butane-propane mixes, natural gasoline, isopentane, and plant condensate, *when used as feedstocks for crude processing units.*

(t) "Other inputs" (Code 960) include unfinished oils and other hydrocarbons not included in codes 900 and 950, *when used as feedstocks for crude processing units.*

(1) The entry in Column (1) "Inventory: Start of Month" for each product is the inventory of that product on-hand at beginning of the "preceding month" discussed above.

In Column (2) "Quantity Received", enter the total amount of product shipments received during the month at the facility.

(3) Figures entered in Column (3) "Production" may be either positive or negative, depending on the specific product involved.

Normally, figures in this column indicate "Production" in the conventional sense, that is, they represent amounts of a product which are produced and which thus add to the available supply of that product. Therefore, these figures are *positive* numbers. However, "Production" also entails the use of input materials. For example, the last three products on the list—Crude oil (Code 900) Natural gas liquids (Code 950), and Other inputs to crude oil processing units (Code 960)—are consumed in the production of the other products on the list. Therefore, for these three products Column (5) may contain a negative number which will indicate an amount consumed in the "Production" of *other* products.

The "Production" date shown in Column (3) must relate only to processing operations within the reporting facility.

In Column (4) "Domestic Shipments", report only those shipments from the reporting facility to customers within the United States.

In Column (5) "Other", report all occurrences which affect inventory, other than those reported in Columns (2), (3), and (4). For example, losses, direct export shipments or any additions not accounted for by "Quantity Received" Column (2) and "Production" Column (3) would be reported in Column (5).

In Column (6) "Inventory, End of Month", enter the end-of-month inventory, which equals the sum of Columns (1) through (5).

Item No. 6: RECEIPTS OF CRUDE OIL

Item 6 is to be completed for refineries only.

Quantities should be entered in thousands of barrels stated to three decimal places. For example: 1,234 barrels should be entered as "1.234"; 970 barrels should be entered as ".970".

"Old domestic crude oil" is that portion of any month's base production control level for any property (see § 212.72 of the Petroleum Allocation and Price Regulations) remaining after "released domestic crude oil" (see explanation in the next item) has been deducted.

"Released domestic crude oil" is that portion of any month's base production control level which has been "released" from the otherwise applicable ceiling price, and which may be sold at the free market price (see § 212.74(b)), due to production of new domestic crude oil (see § 212.72). The volume of released crude oil is equal to the volume of new crude oil produced.

"New domestic crude oil" is production in excess of the base production control level (also see § 212.72, "new crude petroleum"). For purposes of this report, new crude includes crude oil from stripper well leases (see § 210.32).

Item No. 7: RECEIPTS OF IMPORTED PRODUCTS

Item 7 is to be completed by importers only. The importer should include in the FEO-1001 for each importing terminal, data with respect only to allocated products or crude oil for which it was the "importer", as defined above in Section V.

Item 7 must provide data for receipts of imported products on a country-by-country basis. One page 3 should be completed for each country of origin and the specific country should be named in the block provided in Item No. 7 names. Please reproduce as many page 3's as needed to submit one for each country of origin. The quantities entered under "Quantity Received" should be stated in thousands of barrels to three decimal places. For example: 1,234 barrels should be entered as "1.234"; 970 barrels should be entered as ".970".

Enter in the block provided in Item 7, the total number of pages 3 completed and included as part of your report.

Number the first page 3 as "3-1". If you have completed more than one page 3, number subsequent pages "3-2", "3-3", etc.

Item No. 8: PROJECTED AVAILABILITY

Enter an estimate of the amounts of each petroleum product that the facility will have available for distribution in each of the three months following the month during which the report is to be submitted. The quantities entered in Columns (1), (2), and (3) should be stated in thousands of barrels to three decimal places. For example: 1,234 barrels should be entered as "1.234"; 970 barrels should be entered as ".970".

Refer to the instructions for Item No. 5 for explanation of the terms, "Natural Gas Liquids" and "Other Inputs".

Over Columns (1), (2), and (3) following "Month of _____" enter four-digit month and year codes for the three months following the report month (the report month is the month in which the FEO-1001 is being submitted pursuant to § 211.222 (a)). For example, if the report is prepared on May 10, 1974, the three following months would be June, July, and August and "06-74", "07-74", and "08-74" would be entered over columns (1), (2), and (3), respectively.

Item No. 9: CERTIFICATION

Type the name and title of the individual who has signed the certification, and the date of signing, in the spaces provided on the form. The individual who signs and certifies this form must be the Chief Executive Officer of the Parent *or* such other executive officer of the entity as authorized by the Chief Executive Officer to sign for him for this purpose. In the latter case, the reporting firm *must* file with the addressee office, a letter of authorization signed by the Chief Executive Officer which identifies other officials authorized to certify forms for the firm. A sample format for this letter is available from any FEO Regional Office.

FEDERAL ENERGY OFFICE
REFINER/IMPORTER/GAS PROCESSING PLANT OPERATOR
MONTHLY REPORT BY FACILITY
FEO-1001

FOR FEO USE ONLY
FORM NO. 0 5
ACCESSION NO.

1. a. THIS REPORT IS (1) ☐ ORIGINAL, OR (2) ☐ REVISION TO REPORT DATED _____ b. DATE OF THIS REPORT _____

c. REPORTING FIRM EIN

d. REPORTING FACILITY ZIP

2. REPORTING FIRM

a. NAME

b. STREET/BOX/RFD c. CITY d. STATE

e. NAME OF CONTACT OFFICIAL f. TELEPHONE (INCL. AREA CODE) ( ) -

3. REPORTING FACILITY

a. NAME b. EIN

c. STREET/BOX/RFD d. CITY e. STATE f. ZIP CODE

4. CLASSIFICATION OF REPORTING FACILITY (CHECK ONE BOX ONLY) (SEE SECTION II OF THE INSTRUCTIONS)

a. ☐ REFINERY — Complete pages 1, 2, and 4 only
b. ☐ IMPORTING TERMINAL — Complete pages 1, 3, and 4 only
c. ☐ GAS PROCESSING PLANT — Complete pages 1 and 4 only

5. a. DATA FOR PRECEDING MONTH OF _____ (1,000's OF BARRELS):

PETROLEUM PRODUCTS	CODE	INVENTORY START OF MONTH (1)	QUANTITY RECEIVED (2)	PRODUCTION (3)	DOMESTIC SHIPMENTS (4)	OTHER (5)	INVENTORY END OF MONTH (COL. 1 + COL. 2 ± COL. 3 − COL. 4 ± COL. 5) (6)
OUTPUTS:							
b. LEADED MOTOR GASOLINE	210						
c. UNLEADED MOTOR GASOLINE	220						
d. KEROSENE	310						
e. #2 HEATING OIL	320						
f. DIESEL FUEL	330						
g. OTHER MIDDLE DISTILLATES	340						
h. AVIATION GASOLINE	410						
i. KEROSENE-BASE JET FUEL	420						
j. NAPHTHA-BASE JET FUEL	430						
k. #4 FUEL OIL FOR UTILITY USE	510						
l. #5, #6 FUEL OILS FOR UTILITY USE	520						
m. #4 FUEL OIL FOR NON-UTILITY USE	530						
n. #5, #6 FUEL OILS FOR NON-UTILITY USE	540						
o. BUNKER C	550						
p. NAVY SPECIAL FUEL OIL	560						
q. OTHER RESIDUAL FUEL OILS	570						
r. ALL OTHER OUTPUTS	900						
INPUTS:							
s. CRUDE OIL	900						
t. NATURAL GAS LIQUIDS	950						
u. OTHER INPUTS	980						

FEO-1001 (REV. 6-74)

FEO-1001 PAGE 2

FOR FEO USE ONLY
FORM NO. 0 7
ACCESSION NO.

1. a. THIS REPORT IS (1) ☐ ORIGINAL, OR (2) ☐ REVISION TO REPORT DATED _____ b. DATE OF THIS REPORT _____

c. REPORTING FIRM EIN

d. REPORTING FACILITY ZIP

6. RECEIPTS OF CRUDE OIL (TO BE COMPLETED FOR REFINERIES ONLY)

CRUDE OIL RECEIPTS	CODE	QUANTITY RECEIVED (1,000's OF BBLS)	AVERAGE PRICE PER BARREL
a. OLD DOMESTIC CRUDE OIL	910		
b. RELEASED DOMESTIC CRUDE OIL	915		
c. NEW DOMESTIC CRUDE OIL	920		
d. IMPORTED CRUDE OIL	930		
TOTAL CRUDE OIL	900		

FEO-1001 PAGE 3

FOR FEO USE ONLY
FORM NO. 0 8
ACCESSION NO.

1. a. THIS REPORT IS (1) ☐ ORIGINAL, OR (2) ☐ REVISION OF REPORT DATED _____ b. DATE OF THIS REPORT _____

c. REPORTING FIRM EIN ☐☐☐☐☐☐☐☐☐ d. REPORTING FACILITY ZIP ☐☐☐☐☐

7. RECEIPTS OF IMPORTED PRODUCTS (To be completed for Importing Terminals only).

a. COUNTRY OF ORIGIN* _____

b. NUMBER OF PAGE(S) 3 COMPLETED (INCLUDING THIS PAGE) _____

IMPORTED PRODUCT NAME	CODE	QUANTITY RECEIVED (1,000's OF BBLS)	AVERAGE PRICE PER BARREL
c. LEADED MOTOR GASOLINE	210		
d. UNLEADED MOTOR GASOLINE	220		
e. KEROSENE	310		
f. #2 HEATING OIL	320		
g. DIESEL FUEL	330		
h. OTHER MIDDLE DISTILLATES	340		
i. AVIATION GASOLINE	410		
j. KEROSENE-BASE JET FUEL	420		
k. NAPHTHA-BASE JET FUEL	430		
l. #4 FUEL OIL FOR UTILITY USE	510		
m. #5, #6 FUEL OILS FOR UTILITY USE	520		
n. #4 FUEL OIL FOR NON-UTILITY USE	530		
o. #5, #6 FUEL OILS FOR NON-UTILITY USE	540		
p. BUNKER C	550		
q. NAVY SPECIAL FUEL OIL	560		
r. OTHER RESIDUAL FUEL OILS	570		
s. CRUDE OIL	930		

*IF PRODUCTS WERE IMPORTED FROM MORE THAN ONE COUNTRY, COMPLETE A SEPARATE PAGE THREE FOR EACH COUNTRY OF ORIGIN. IN THE SPACE PROVIDED, INDICATE THE NUMBER OF PAGE(S) 3 YOU HAVE COMPLETED.

FEO-1001 PAGE 4

FOR FEO USE ONLY
FORM NO. 0 6
ACCESSION NO.

1. a. THIS REPORT IS (1) ☐ ORIGINAL, OR (2) ☐ REVISION TO REPORT DATED _____ b. DATE OF THIS REPORT _____

c. REPORTING FIRM EIN ☐☐☐☐☐☐☐☐☐ d. REPORTING FACILITY ZIP ☐☐☐☐☐

8. ESTIMATED TOTAL SUPPLY FOR THE FOLLOWING THREE MONTHS (1,000's OF BARRELS):

PETROLEUM PRODUCT	CODE	MONTH OF _____ (1)	MONTH OF _____ (2)	MONTH OF _____ (3)
OUTPUTS:				
a. LEADED MOTOR GASOLINE	210			
b. UNLEADED MOTOR GASOLINE	220			
c. KEROSENE	310			
d. #2 HEATING OIL	320			
e. DIESEL FUEL	330			
f. OTHER MIDDLE DISTILLATES	340			
g. AVIATION GASOLINE	410			
h. KEROSENE-BASE JET FUEL	420			
i. NAPHTHA-BASE JET FUEL	430			
j. #4 FUEL OIL FOR UTILITY USE	510			
k. #5, #6 FUEL OILS FOR UTILITY USE	520			
l. #4 FUEL FOR NON-UTILITY USE	530			
m. #5, #6 FUEL OILS FOR NON-UTILITY USE	540			
n. BUNKER C	550			
o. NAVY SPECIAL FUEL OIL	560			
p. OTHER RESIDUAL FUEL OILS	570			
q. ALL OTHER OUTPUTS	800			
INPUTS:				
r. CRUDE OIL	900			
s. NATURAL GAS LIQUIDS	950			
t. OTHER INPUTS	960			

9. I CERTIFY THAT INFORMATION SHOWN HEREIN AND APPENDED HERETO IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

CERTIFYING OFFICER:

NAME _____ SIGNATURE _____ DATE _____

TITLE 18 USC 1001, MAKES IT A CRIME FOR ANY PERSON KNOWINGLY AND WILLINGLY TO MAKE TO ANY AGENCY OR DEPARTMENT OF THE UNITED STATES ANY FALSE, FICTITIOUS OR FRAUDULENT STATEMENTS AS TO ANY MATTER WITHIN ITS JURISDICTION.

U.S. GOVERNMENT PRINTING OFFICE: 1974 O—550-722

[FR Doc.74-15606 Filed 7-10-74;8:45 am]

APPENDIX—RULINGS

[Ruling 1974–23]

CAR WASH SALES OF GASOLINE

Facts. Firm A is a company engaged in the operation of a car wash facility and in the retail sale of gasoline. Firm A's normal business practice, established prior to January 15, 1974, was to sell gasoline only to customers of its car wash facility.

Firm B is also a company engaged in the operation of a car wash facility and in the retail sale of gasoline. Firm B does not limit its sales of gasoline to customers of its car wash facility, but makes gasoline available for sale to anyone.

Issue 1. Is Firm A's practice of selling gasoline only to customers of its car wash facility a violation of 10 CFR 210.62 (c)?

Issue 2. May Firm A increase the price it charges for car washes?

Issue 3. May Firm B increase the price it charges for car washes?

Ruling. Firm A may continue its practice of making gasoline available for sale only to customers of its car wash facility. 10 CFR 210.62(c) was not intended to require the discontinuance of normal business practices that were established prior to January 15, 1974. This ruling recognizes that such business practices have developed because, in many instances, car wash facilities are constructed so that it is difficult or inconvenient for customers to purchase gasoline and leave the premises without going through the car wash. In addition, car wash facilities often depend heavily on the combined revenues from car washes and the sale of gasoline, so that if a normal business practice of selling gasoline only to car wash customers could not be continued, such businesses would suffer financial hardship.

Firm A, is, however, subject to the price regulations of the FEO as a retailer of gasoline, and in order to insure that the price regulations applicable to the retail sale of gasoline are not circumvented, Firm A may not increase, above the May 15, 1973 level, the prices it charges for car washes purchased by customers who purchase gasoline. The limitation to May 15, 1973 prices for car washes purchased by customers who purchase gasoline applies both to the maximum price of such car washes and to the terms of any discount schedule in effect on May 15, 1973, whereby the car wash price was reduced according to the quantity of gasoline purchased.

Firm B, which does not require its gasoline customers to purchase car washes, is not subject to any limitation on the price it charges for car washes, and may increase the price over its May 15, 1973 level. However, if Firm B had a discount schedule in effect on May 15, 1973, whereby its car wash price was reduced or eliminated according to the quantity of gasoline purchased, the discount schedule must be maintained, since the amount of any discount on the car wash price that was received with the purchased of gasoline on May 15, 1973, was part of the product and service received by a purchaser for the May 15, 1973 price, and elimination or reduction of the discount would therefore constitute an impermissible price increase by Firm B.

Some May 15, 1973 discount schedules were stated in terms of dollar amounts of gasoline purchased, rather than in terms of gallons of gasoline purchased. Whether a discount schedule was stated in terms of a dollar amount or a gallon amount was immaterial on May 15, 1973. As a practical matter, car wash operators which had a discount schedule in effect on May 15, 1973, depended on their margin on sales of a given number of gallons of gasoline, whether the schedule was stated in terms of dollar amounts or gallons of gasoline. In order to treat all retailers of gasoline on the same basis under the price regulations, retailers may require currently the purchase of the same number of gallons of gasoline to obtain a specified discount on a car wash price as they did on May 15, 1973, without regard to whether their May 15, 1973 discount schedules were stated in terms of dollars or gallons. Accordingly, a discount schedule stated in terms of dollar amounts on May 15, 1973 may now be stated in terms of the number of gallons of gasoline that could be purchased for the applicable May 15, 1973 dollar amount at May 15, 1973 prices. The foregoing principles are illustrated by the following examples:

Example 1. Firm A sells gasoline only to purchasers of car washes. It also makes car washes available for sale without the purchase of gasoline. On May 15, 1973 Firm A's car wash prices were as follows:

Car wash	$2.00
Car wash with purchase of 5 gallons or more of gasoline	1.50
Car wash with purchase of 10 gallons or more of gasoline	1.00
Car wash with purchase of 15 gallons or more of gasoline	.50

Firm A may increase the price it charges for only those car washes sold to customers who do not purchase gasoline. It may not increase the prices of car washes sold to those who purchase gasoline above the levels listed above, i.e.:

Car wash with purchase of 5 gallons or more of gasoline	$1.50
Car wash with purchase of 10 gallons or more of gasoline	1.00
Car wash with purchase of 15 gallons or more of gasoline	.50

Example 2. Firm A sells only to purchasers of car washes, and also makes car washes available for sale without the purchase of gasoline, as in Example 1, except that on May 15, 1973, its car wash prices were:

Car wash	$2.00
Car wash with $1 purchase of gasoline	1.50
Car wash with $3 purchase of gasoline	1.00
Car wash with $5 purchase of gasoline	.50

On May 15, 1973, Firm A sold regular gasoline for $.31 per gallon and premium gasoline for $.35 per gallon. Its weighted average selling price for a gallon of gasoline on May 15, 1973 was $.333.

Firm A may increase the price it charges for only those car washes sold to customers who do not purchase gasoline. It may not increase the prices of car washes sold to those who purchase gasoline above the levels listed above, provided that the gallon equivalents of May 15, 1973 dollar amounts may be used, i.e.:

Car wash with purchase of 3 gallons (i.e., $1 divided by $0.333) of gasoline	$1.50
Car wash with purchase of 9 gallons (i.e., $3 divided by $0.333) of gasoline	1.00
Car wash with purchase of 15 gallons (i.e., $5 divided by $0.333) of gasoline	.50

Example 3. Firm B does not require its gasoline customers to purchase car washes, but on May 15, 1973, it provided discounts on its car wash prices as follows:

Car wash with purchase of 15 gallons or more of gasoline	Free
Car wash with purchase of 10 gallons or more of gasoline	$0.50
Car wash with purchase of 5 gallons or more of gasoline	1.50
Car wash with no gasoline purchase	2.00

Firm B may increase the prices it charges for car washes, provided it continues to make gasoline available for sale to anyone, without regard to whether they purchase a car wash. Firm B must, however, maintain its May 15, 1973 discount schedule. Thus, if the price of a car wash were increased to $3.00, Firm B could not charge more than $1.00 for a car wash with the purchase of 15 gallons or more gasoline; $1.50 with the purchase of 10 gallons or more of gasoline; or $2.50 with the purchase of 5 gallons or more of gasoline. If Firm B's discount schedule were stated on May 15, 1973, in terms of dollar amounts, it could change those dollar amounts into the equivalent number of gallons, as in Example 2, above.

ROBERT E. MONTGOMERY, Jr.,
Acting General Counsel,
Federal Energy Administration.

JULY 5, 1974.

[FR Doc.74–15803 Filed 7–10–74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74–NW–15–AD; Amdt. 39–1897]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707–300, –300B/C and 400 Series Airplanes

There have been cracks in the upper wing skin under the external rib chord at WBL 59.24. One crack was approximately 48 inches long. This cracking impairs the structural integrity of the wing and could lead to structural failure. Since this condition is likely to develop in other airplanes of these models, an Airworthiness Directive is being issued

to require inspections and repair, as necessary, of the upper wing skins.

Since a situation exists that requires immediate adoption of this regulation it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days after the date of publication in the FEDERAL REGISTER.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

BOEING. Applies to all Boeing 707-300, -300B/C, -400 series airplanes listed in Boeing Service Bulletin 3168 with more than 5000 flights which have not accomplished Boeing Service Bulletin 2607 or 2427 part X(a). For purposes of this AD, one flight is defined as one takeoff and landing. Compliance required as indicated.

To detect cracking in the upper wing skin under the external rib chord at WBL 59.24, on airplanes with more than 5000 flights, or more than 5000 flights since incorporation of Service Bulletin 2626, accomplish the inspections of (1) at the times specified in (2).

(1) Inspect the wing skins for cracks around the 4 critical fasteners as defined in Boeing Service Bulletin 3168 by use of the procedures specified in (a) or (b) below. Wing skins found cracked are to be repaired prior to further flight in accordance with Boeing Service Bulletin 3168 or 2607 or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

(a) Eddy current procedures as specified in Boeing Service Bulletin 3168. No further inspections are required after eddy current inspections have been made.

(b) Ultrasonic inspection procedures as specified in Boeing Service Bulletin 3168. Reinspection of the wing skin is required at intervals not to exceed 200 flights until an eddy current inspection of (a) above has been accomplished, or the wing skin has been modified in accordance with Boeing Service Bulletin 2607 or a method approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

(2) After the effective date of this AD, aircraft with more than 10,000 flights, are to be inspected within the next 100 flights; airplanes with more than 7500 flights, within the next 200 flights; airplanes with more than 5000 flights, within the next 300 flights.

This amendment becomes effective on July 16, 1974.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Aiplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at FAA Northwest Region, 9010 East Marginal Way, Seattle, Washington 98108.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); section 6(c), Department of Transportation Act, (49 U.S.C. 1655(c))

NOTE: The incorporation by reference provisions in this document were approved by the Director of the FEDERAL REGISTER on June 19, 1967.

Issued in Seattle, Washington on July 2, 1974.

J. H. TANNER,
Acting Director,
Northwest Region.

[FR Doc.74-15804 Filed 7-10-74;8:45 am]

[Docket No. 12547; Amdt. No. 141-13]

PART 141—PILOT SCHOOLS

Correction

In FR Doc. 74-12776 appearing at page 20146 in the issue for Thursday, June 6, 1974, the following changes should be made:

1. On page 20153 in § 141.11(c)(7), the word "loan" should read "load".

2. On page 20158, Appendix A paragraph 5(c) should read as set forth below:

(c) Each student must satisfactorily accomplish a flight test at the completion of the first solo flight and at the completion of the first solo cross-country flight and at the conclusion of that course.

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER C—FEDERAL HAZARDOUS SUBSTANCES ACT REGULATIONS

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

PART 1507—FIREWORKS DEVICES

Stay of Effective Date of Order Classifying as Banned Hazardous Substances and Establishing Labeling Requirements

This notice is to announce the stay of the effective date of the fireworks devices regulations issued by the Commission on May 16, 1974 (39 FR 17435) pending a public hearing on the matter.

These regulations, as of June 18, 1974, would have (1) banned firecrackers, (2) banned other fireworks devices not meeting specified safety requirements, (3) established safety requirements for fireworks, (4) established specific labeling requirements for fireworks, and (5) revoked an existing exemption for certain fireworks devices from classification as banned hazardous substances.

A notice of proposed rulemaking under the Federal Hazardous Substances Act in the above-identified matter was published in the FEDERAL REGISTER of May 16, 1973, by the Food and Drug Administration (38 FR 12880). The Consumer Product Safety Commission, having assumed responsibility for administration of the Federal Hazardous Substances Act on May 14, 1973, pursuant to section 30(a) of the Consumer Product Safety Act (15 U.S.C. 2079(a)), evaluated the comments received in response to the proposal and other relevant information and published an order on May 16, 1974, adopting the proposal.

An objection requesting a hearing was received on June 14, 1974, on behalf of the Oklahoma Pyrotechnics Association, the Macao Fireworks Association, Li and Fung (Trading) Ltd., Hong Kong, and the Taiwan Fireworks Manufacturers Association.

The Commission, having evaluated the objection, concludes that sufficient grounds were stated for staying the order and granting a public hearing.

Subsequently, three other objections were received raising issues relevant to the proceedings. These objectives were received from the State of Hawaii, Mike's Fireworks & Toys, Inc., Kansas City, Kansas, and Blogin Sales Company, Parkville, Mo. Accordingly, these objections have also been filed.

Under section 701(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)) the effective date of regulations issued under that section is automatically stayed by the filing of proper objections.

Therefore, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(q)(1)(B), (2), (3)(b), 74 Stat. 374–375, as amended, 80 Stat. 1304–1305; (15 U.S.C. 1261, 1262)), and of the Federal Food, Drug, and Cosmetic Act (sec. 701(e), 52 Stat. 1055, as amended; (21 U.S.C. 371(e))), 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))), it is announced that the effective date of the order published May 16, 1974 (39 FR 17435) promulgating § 1500.14(b)(7)(i)–(xv); §§ 1500.17(a)(8)(9); and 1507.1–1507.11, and revoking § 1500.85(a)(2), of Subchapter C of 16 CFR Chapter II, is stayed pending the resolution of issues at a public hearing (an announcement scheduling the hearing and stating the issues therefor will be published at a later date).

(Secs. 2(q)(1)(B), (2), (3)(b), 74 Stat. 374–375 as amended, 80 Stat. 1304–1305; (15 U.S.C. 1261, 1262); sec. 701(e), 52 Stat. 1055 as amended (21 U.S.C. 371(e)); sec. 30(a), 86 Stat. 1231; (15 U.S.C. 2079(a)))

Dated: July 8, 1974.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.74-15847 Filed 7-10-74;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER III—DELAWARE RIVER BASIN COMMISSION

PART 401—RULES OF PRACTICE AND PROCEDURE

Revision of Part

The following Rules of Practice and Procedure (18 CFR Part 401) pertain to the administration of the Comprehensive Plan, the annual Water Resources Program and the project review responsibilities of the Delaware River Basin Commission, all as provided for in the Dela-

ware River Basin Compact.[1] The text incorporates amendments to 18 CFR Part 401 through April 1974. The regulations are presently in effect as Part II of the Commission's Administrative Manual.

Accordingly, 18 CFR Part 401 is revised as follows:

Dated: July 3, 1974.

W. BRINTON WHITALL,
Secretary, Delaware River Basin Commission.

Sec.

401.0 Introduction.

Subpart A—Comprehensive Plan

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401.2 Concept of the Plan.
401.3 Other agencies.
401.4 Amendments and revisions.
401.5 Review of proposal.
401.6 Further action.
401.7 Public projects under Article 11 of the Compact.
401.8 Custody and availability.

Subpart B—Water Resources Program

401.21 Scope.
401.22 Concept of the Program.
401.23 Procedure.
401.24 Preparation and adoption.
401.25 Alternatives for public projects.
401.26 Inventory of other projects.

Subpart C—Project Review Under Section 3.8 of the Compact

401.31 Scope.
401.32 Concept of 3.8.
401.33 Administrative agreements.
401.34 Submission of project required.
401.35 Classification of projects for review under section 3.8 of the Compact.
401.36 Water pollution control projects—Regional requirements.
401.37 Siting studies for major electric generation projects.
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401.39 Form of referral by State or Federal agencies.
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401.41 Preliminary action: Informal conference; Emergencies.
401.42 Hearings.
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401.44 Limitation of approval.
401.45 Certificate of compliance.
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401.53 Applicant's environmental report.
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401.56 Actions requiring an environmental impact statement.
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401.59 Pre-draft consultation with appropriate agencies.
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401.66 Adequacy of draft and final environmental impact statements.
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Subpart E—Review in Water Quality Cases

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401.77 Failure to furnish report.
401.78 Informal conference.
401.79 Consolidation of hearings.

Subpart F—Conduct of Hearings

401.81 Hearings generally.
401.82 Hearing officer.
401.83 Hearing procedure.
401.84 Staff and other expert testimony.
401.85 Record of proceedings.
401.86 Findings and report.
401.87 Action by the Commission.

Subpart G—General Provisions

401.91 Definitions.
401.92 Supplementary details.
401.93 Waiver of rules.
401.94 Construction.

AUTHORITY: Sec. 14.2, Delaware River Basin Compact, 75 Stat. 708.

§ 401.0 Introduction.

(a) The regulations in this part govern the process whereby the Commission will include projects in the Comprehensive Plan and extend them into an annual Water Resources Program. Also set forth herein are the procedures and definitions that the Commission will use in screening projects proposed by others to test their compatibility with the Comprehensive Plan. An interrelationship among these three requirements is apparent in the Delaware River Basin Compact.

(b) Article 13 of the Compact calls for the adoption of the Comprehensive Plan and Water Resources Program. These documents are defined as follows:

(1) *Comprehensive Plan.* A plan that includes all public and private projects and facilities which are required in the judgment of the Commission for optimum planning, development, conservation, use, management, and control of the water resources of the Delaware Basin to meet present and future needs. The Comprehensive Plan is dynamic and will be periodically revised.

(2) *Water Resources Program.* An annual presentation, based upon the Comprehensive Plan, of the quantity and quality of water resources needs of the area to be served during the ensuing six years or for such reasonably foreseeable period as the Commission may determine, balanced by existing and proposed projects required to satisfy such needs, including all public and private projects to be anticipated, together with a separate statement of the projects proposed to be undertaken by the Commission during such period.

(c) To protect the integrity of the Comprehensive Plan and avoid conflicts of jurisdiction, the Compact provides generally, in Article 11, for cooperative planning of all public projects, and more specifically, in section 3.8 of the Compact, confers certain regulatory authority upon the Commission. Section 3.8 provides for a review of water resources projects to determine two matters: First, whether the project will have "a substantial effect on the water resources of the basin;" and secondly, whether a project having such an effect would "substantially impair or conflict with the Comprehensive Plan." The basic concept is thus both comprehensive and integrated planning and development.

(d) A project may enter the Comprehensive Plan in the discretion of the Commission whenever the project is ready for such action, both on its own merits and in relation to other projects which are part of the Plan. Subpart A of this part develops the concept of the Comprehensive Plan and the procedure to be followed for inclusion of new projects or modification of existing ones. The water Resources Program represents a selection of projects by the Commission taken from the Comprehensive Plan. These are projects which the Commission recommends for action during the ensuing six-year period. Procedures that the Commission will follow in developing the Water Resources Program are contained in Subpart B of this part.

(e) The regulatory power of the Commission under section 3.8 of the Compact extends to all public and private projects. However, since the Compact also provides for cooperative planning of public projects (Article 11), a special procedure to accelerate Commission approval of such projects is provided as part of the process of adoption of a Water Resources C of this part, the sponsor of a public project has a choice of routes for Commission approval: Where advance approval is necessary or desirable, the sponsor may secure approval through the process of project inclusion in the Water Resources Program; and this is an opportunity that will be available at a specified time each year. Where the sponsor may for any reason prefer the alternate course, the public project may be submitted for review under section 3.8 of the Compact. In brief, approval of a public project as ready for action within the Water Resources Program will have the effect of approval for purposes of section 3.8, but omission of a project from the Water Resources Program still leaves the door open for the project sponsor to proceed under section 3.8. Finally, under the regulations in this part private projects are required to proceed under section 3.8.

Subpart A—Comprehensive Plan

§ 401.1 Scope.

This subpart shall govern the submission, consideration and inclusion of projects into the Comprehensive Plan.

§ 401.2 Concept of the Plan.

(a) The Comprehensive Plan, as required in section 13.1 of the Compact, will provide for the immediate and long-range development and use of the water

[1] Copies of the Compact may be obtained from the Delaware River Basin Commission, P.O. Box 360, Trenton, N.J. 08603.

resources of the basin. The Plan will include all public and private projects and facilities which are required, in the judgment of the Commission, for the optimum planning, development, conservation, use, management and control of the water resources of the basin, in light of present and foreseeable future needs. It will consist of statements of policy, criteria and standards, as well as the principal physical projects, objectives and programs that will be involved in the development of the river basin.

(b) The Plan will be a body of documents expressing a systematic set of policies and programs for the future, and the means for carrying them out. It will be expressed through narrative text, maps, charts, schedules, budgets and other means.

(c) From time to time specific projects and facilities and programs may be incorporated, deleted, or modified to reflect changing conditions, research results and new technology. At any given time the degree of detail describing particular projects will vary depending upon the state of their development.

§ 401.3 Other agencies.

For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the Commission as a regional agency of the signatory parties to the Compact, Federal, State and local agencies shall follow the requirements of Article 11 of the Compact.

NOTE: As to Federal agencies, the Compact provides: "No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility nor shall it be deemed authorized, unless it shall have first been included by the Commission in the Comprehensive Plan."

As to State and local agencies, the Compact provides: "No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility unless it shall have first been included by the Commission in the Comprehensive Plan."

As to Federal, State and local agencies, the Compact provides: "The planning of all projects related to powers delegated to the Commission by this Compact shall be undertaken in consultation with the Commission * * *" Each * * * "agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority except as specifically provided by this section."

§ 401.4 Amendments and revisions.

The Comprehensive Plan will be open, upon application of any interested party, for review and inclusion of new projects and for deletion or alteration of previously included projects. To this end, the Commission will receive and consider proposals for changes and additions to the Comprehensive Plan which may be submitted by any agency of the signatory parties, or any interested person, organization or group. Any such proposal shall be submitted in such form as may be required by the Executive Director to facilitate consideration by the Commission and shall include at least the following information:

(a) Purpose or purposes, including quantitative measures of physical benefits anticipated from the proposal.

(b) Approximate location, dimensions (if a structural project) and land area required.

(c) Draft or description of a proposed standard, policy or other non-structural measure.

(d) Forecast of the cost (if structural) or effect on the utilization of water resources (if a non-structural measure).

(e) Relation to other parts of the existing Comprehensive Plan.

(f) A description of the construction procedures to be followed in excavating, backfilling, retention of sediment, reseeding and landscaping, all with particular reference to minimizing soil erosion and sedimentation in the stream.

§ 401.5 Review of proposal.

Following staff study, examination and review of each proposal, the Commission will take such action on the proposal as may be appropriate, and will hold such public hearings thereon as are required by the Compact.

§ 401.6 Further action.

The Commission will review the Comprehensive Plan in its entirety at least once every six years from the date of the initial adoption of the Comprehensive Plan (Phase I, March 28, 1962). The amendments, additions and deletions will be compiled and the Plan as so revised will be republished annually.

§ 401.7 Public projects under Article 11 of the Compact.

(a) After a project of any Federal, State or local agency has been included in the Comprehensive Plan, no further action will be required by the Commission or by the agency to satisfy the requirements of Article 11 of the Compact, except as the Comprehensive Plan may be amended or revised pursuant to the Compact and these regulations. Any project which is changed substantially from the project as described in the Comprehensive Plan will be deemed to be a new and different project for the purposes of Article 11 of the Compact. Whenever a change is made the sponsor shall advise the Executive Director who will determine whether the change is deemed substantial within the meaning of the regulations in this part.

(b) Any project not having a substantial effect on the water resources of the basin, as defined in Subpart C of this part, may proceed without reference to Article 11 of the Compact.

§ 401.8 Custody and availability.

The Comprehensive Plan shall be and remain in the custody of the Executive Director. The Plan, including all maps, charts, descriptions and supporting data shall be and remain a public record open to examination during the regular business hours of the Commission, under such safeguards as the Executive Director may determine to be necessary to preserve and protect the Plan against loss, damage or destruction. Copies of the Comprehensive Plan or any part or parts thereof shall be made available by the Executive Director for public sale at a price covering the cost of production and distribution.

Subpart B—Water Resources Program

§ 401.21 Scope.

This subpart shall govern the submission, consideration and inclusion of projects into the Water Resources Program.

§ 401.22 Concept of the Program.

The Water Resources Program, as defined and described in section 13.2 of the Compact, will be a reasonably detailed amplification of that part of the Comprehensive Plan which the Commission recommends for action within the ensuing six-year period. That part of the Program consisting of a presentation of the water resources needs of the basin will be revised only at such intervals as may be indicated to reflect new findings and conclusions, based upon the Commission's continuing planning programs.

§ 401.23 Procedure.

Each project included in the Water Resources Program shall have been previously included in the Comprehensive Plan, except that a project may be added to both the Plan and the Program by concurrent action of the Commission. The project's sponsor shall furnish the following information prior to the inclusion of the project in the Water Resources Program:

(a) The Comprehensive Plan data brought up-to-date for the period of the Water Resources Program.

(b) Specific location and dimension of a structural project, and specific language of a standard, policy or other non-structural proposal.

(c) The plan of operation of a structural project.

(d) The specific effects of a non-structural project.

(e) Sufficient data to indicate a workable financial plan under which the project will be carried out.

(f) A timetable for implementation.

§ 401.24 Preparation and adoption.

The Water Resources Program will be prepared and considered by the Commission for adoption annually. Projects required to satisfy the basin needs during the period covered by the Program may be classified as follows:

(a) "A" list: This shall include public projects which require no further review, and inclusion in such list shall be deemed to be approved for the purposes of section 3.8 of the Compact.

(b) "B" list: This shall include public projects not included in the "A" list and privately sponsored projects which are proposed or anticipated by the Commission.

§ 401.25 Alternatives for public projects.

Any public project which has been included in the Comprehensive Plan but is not on the "A" list of the current Water Resources Program, at the option of the sponsor, may be submitted for review and

approval under section 3.8 of the Compact in accordance with Subpart C of this part.

§ 401.26 Inventory of other projects.

Each Water Resources Program will include, for information purposes only, an inventory of projects approved during the previous year pursuant to section 3.8 of the Compact but which are not part of the Comprehensive Plan or Water Resources Program.

Subpart C—Project Review Under Section 3.8 of the Compact

§ 401.31 Scope.

This subpart shall govern the submission and review of projects under section 3.8 of the Delaware River Basin Compact.

§ 401.32 Concept of 3.8.

Section 3.8 is intended to protect and preserve the integrity of the Comprehensive Plan. This section of the Compact provides:

> No project having a substantial effect on the water resources of the basin shall hereafter be undertaken by any person, corporation or governmental authority unless it shall have been first submitted to and approved by the Commission, subject to the provisions of sections 3.3 and 3.5. The Commission shall approve a project whenever it finds and determines that such project would not substantially impair or conflict with the Comprehensive Plan and may modify and approve as modified, or may disapprove any such project whenever it finds and determines that the project would substantially impair or conflict with such Plan. The Commission shall provide by regulation for the procedure of submission, review and consideration of projects, and for its determinations pursuant to this section. Any determination of the Commission hereunder shall be subject to judicial review in any court of competent jurisdiction.

§ 401.33 Administrative agreements.

The Executive Director is authorized and directed to enter into cooperative Administrative Agreements with Federal and State regulatory agencies concerned with the review of projects under Federal or State law as follows:

(a) To facilitate the submission and review of applications and the determinations required under section 3.8 of the Compact.

(b) To avoid unnecessary duplication of staff functions and hearings required by law.

(c) For such other and different purposes as he may deem feasible and advantageous for the administration of the Compact or any other law.

(d) Provided that any such Administrative Agreement shall be effective solely for purposes of intergovernmental cooperation and the failure of any applicant to comply with the provisions of any such agreement shall not prejudice his application or the consideration thereof.

§ 401.34 Submission of project required.

Any project which may have a substantial effect on the water resources of the basin, except as provided in paragraph (d) of this section, shall be submitted to the Commission for a determination as to whether the project will have a substantial effect on the water resources of the basin and, if so, whether the project impairs or conflicts with the Comprehensive Plan, as follows:

(a) Where the project is subject to review by a State or Federal agency which has entered into an Administrative Agreement with the Commission, such project will be referred to the Commission in accordance with the terms of the Administrative Agreement, and appropriate instructions will be prepared and issued by the Executive Director for guidance of project sponsors and applicants.

(b) Where no other State or Federal agency has jurisdiction to review and approve a project, or no Administrative Agreement is in force, the project sponsor shall apply directly to the Commission.

(c) Any project proposal which may have a substantial effect on the water resources of the basin may be received and reviewed by the staff informally in conference with the project sponsor during the preliminary planning phase to assist the sponsor to develop the project in accordance with the Commission's requirements.

(d) Whenever a project sponsored by one of the signatory parties, or by any agency, political subdivision or public corporation thereof, has been included in the Water Resources Program in the "A" list classification, the project, to the extent of such inclusion and as described in the Program, shall be deemed approval for the purposes of section 3.8 of the Compact.

(e) Whenever a project is subject to review and approval by the Commission under this section, there shall be no substantial construction activity thereon, including related preparation of land, unless and until the project has been approved by the Commission: *Provided, however,* That this prohibition shall not apply to the drilling of wells for purposes of obtaining geohydrologic data, nor to in-plant control and pretreatment facilities for pollution abatement.

§ 401.35 Classification of projects for review under section 3.8 of the Compact.

(a) Except as the Commission may specially direct by notice to the project owner or sponsor, or as a State or Federal agency may refer under paragraph (c) of this section, a project in any of the following classifications will be deemed not to have a substantial effect on the water resources of the basin and is not required to be submitted under section 3.8 of the Compact:

(1) The construction of new impoundments or the enlargement or removal of existing impoundments, for whatever purpose, when the storage capacity is less than 100 million gallons.

(2) A withdrawal from ground water for any purpose when the daily average gross withdrawal during any calendar month does not exceed 100,000 gallons.

(3) A withdrawal from impoundments or running streams for any purpose when the daily average gross withdrawal during any calendar month does not exceed 100,000 gallons.

(4) The construction of new municipal sewage treatment facilities or alteration or addition to existing municipal sewage treatment facilities when the design capacity of such facilities is less than a daily average rate of 50,000 gallons, and all local sewage collector systems and improvements discharging into authorized trunk sewage systems.

(5) The construction of new facilities or alteration or addition to existing facilities for the direct discharge to surface or ground waters of industrial wastewater having design capacity of less than 50,000 gallons per day, except where such wastewater contains toxic concentrations of waste materials.

(6) A change in land cover on major ground water infiltration areas when the amount of land that would be altered is less than three square miles.

(7) Deepening, widening, cleaning or dredging existing stream beds or relocating any channel, and the placement of fill or construction of dikes, on streams within the basin except the Delaware River and tidal portions of tributaries thereto, and streams draining more than one state.

(8) Periodic maintenance dredging.

(9) Encroachments on streams within the basin caused by:

(i) Floating docks and anchorages and buoys and navigational aids.

(ii) Temporary construction such as causeways, cofferdams and falsework required to facilitate construction on permanent structures.

(10) Bridges and highways unless they would pass in or across an existing or proposed reservoir or recreation project area as shown in the Comprehensive Plan.

(11) Liquid petroleum products pipelines and appurtenances designed to operate under pressures less than 150 psi; local electric distribution lines and appurtenances; local communication lines and appurtenances; local natural and manufactured gas distribution lines and appurtenances; local water distribution lines and appurtenances; and local sanitary sewer mains, unless such lines would involve significant disturbance of ground cover affecting water resources.

(12) Electric transmission or bulk power system lines and appurtenances; major trunk communication lines and appurtenances; natural and manufactured gas transmission lines and appurtenances; major water transmission lines and appurtenances, unless they would pass in, on, under or across an existing or proposed reservoir or recreation project area as shown in the Comprehensive Plan, unless such lines would involve significant disturbance of ground cover affecting water resources.

(13) Liquid petroleum products pipelines and appurtenances designed to operate under pressures of more than 150 psi, unless they would pass in, on, under or across an existing or proposed

reservoir or recreation project area as shown in the Comprehensive Plan, or in, on, under or across any stream within the basin, unless such lines would involve significant disturbance of ground cover affecting water resources.

(14) Landfill projects limited to disposal of solid inert wastes such as earth, rock, gravel, concrete, asphalt paving fragments, glass, plaster, plasterboard, rubber products, steel mill slag, clay, clay products, plastics, asbestos shingles, and similar materials, unless such projects are located on flood plains delineated by the Commission or a signatory State.

(15) Draining, filling or otherwise altering marshes or wetlands when the area affected is less than 25 acres.

(b) All other projects which have or may have a substantial effect on the water resources of the basin shall be submitted to the Commission in accordance with the regulations in this part for determination as to whether the project will have a substantial effect on the water resources of the basin and, if so, whether the project impairs or conflicts with the Comprehensive Plan. Among these are projects involving the following (except as provided in paragraph (a) of this section):

(1) Impoundment of water.

(2) Withdrawal of ground water.

(3) Withdrawal of water from impoundment or streams.

(4) Diversion of water into or out of the basin.

(5) Deepening or widening of existing stream beds, channels, anchorages, harbors or turning basins, or the construction of new or enlarged channels, anchorages, harbors or turning basins, or the dredging of the bed of any stream or lake and disposal of the dredged spoil, when the nature or location of the project would affect the quantity or quality of ground or surface waters, or fish and wildlife habitat.

(6) Discharge of pollutants into waters of the basin.

(7) Facilities designed to intercept and transport sewage to a common point of discharge; and pipelines and electric power and communication lines.

(8) Facilities for the direct discharge to surface or ground waters of industrial wastewater.

(9) Projects that substantially encroach upon the stream or upon the 100-year flood plain of the Delaware River or its tributaries.

(10) Change in land cover on major groundwater infiltration areas.

(11) Hydroelectric power projects, including pumped storage projects.

(12) Projects or facilities of Federal, State and local agencies such as highways, buildings and other public works and improvements, affecting the water and related land resources of the basin.

(13) Draining, filling or otherwise altering marshes or wetlands.

(c) Whenever a State or Federal agency determines that a project falling within an excluded classification (as defined in paragraph (a) of this section) may have a substantial effect on the water resources of the basin, such project may be referred by the State or Federal agency to the Commission for action under the regulations in this part.

§ 401.36 Water pollution control projects—Regional requirements.

(a) The use of regional solutions to water pollution problems, with the least number of separate treatment plants which may be efficient in the particular circumstance, is required whenever feasible. Each waste treatment project shall be submitted to the Commission not later than the completion of preliminary engineering for review of its compliance with this and other requirements of the Comprehensive Plan.

(b) In reviewing a project for compliance with this section, the Commission will consider the following matters, comparing regional versus separate treatment systems:

(1) Construction costs and economies of various scales of development.

(2) Operating costs and economies of various scales of operation.

(3) Capability of handling industrial wastes with and without pretreatment.

(4) Capability to assimilate high peak flows and temporary shock loads or emergency conditions.

(5) Space and facilities for sludge disposal.

(6) Personnel skills required and their availability for operation and supervision.

(7) Capacity to absorb growth, and the relative times required to place a separate and a regional system in operation.

(8) Desirability of the site selection alternatives for the treatment plant in view of considerations of efficiency of land use, potential service area and relative transmission distances.

(9) The effect for a reasonable distance downstream on the quality of the receiving waters.

(10) Effectiveness of the proposal in identifying all sources of pollution and in achieving a coordinated, comprehensive and orderly plan for abatement of pollution in the region.

(c) A preliminary engineering report shall accompany each application and shall include factual findings and conclusions with respect to paragraphs (b)(1) through (8) of this section.

(d) For the purpose of the regulations in this part, a "region" is defined to mean one or more drainage areas or parts thereof. A "regional solution" is one which is based upon a feasibility study of the region for which a single system of sewage collection and treatment would be physically and economically feasible.

§ 401.37 Siting studies for major electric generation projects.

(a) An application under section 3.8 of the Compact for approval of an electric generating project with a design capacity of 100,000 KW or more shall include as part of the application: (1) A master siting study, (2) a site selection analysis for the project, and (3) the environmental statement otherwise required.

(b)(1) The master siting study shall describe in general terms all existing major electric generating projects of the applicant and of other public utilities using the water resources of the basin, and all such projects proposed or planned for the ensuing 15-year period. The master siting study shall describe particularly the impact of each proposed project on the water resources and related land resources of the basin. It shall include, with as much detail as is available, a description of the five-mile reach of any stream within which each proposed project is or will be located, the concept, capacity and fuel source of each project, the quantity and method of heat and moisture dissipation, the water resource requirements and water-related ecological effects of each proposed project in the study.

(2) The master siting study will be reviewed by the Commission in relation to the Comprehensive Plan, may be employed as an input to the Comprehensive Plan, and may be considered, in whole or in part, for inclusion in the Plan. A master siting study may be amended from time to time to reflect changing power demands, technology and water resource conditions. The Commission will act in relation to a master siting study or amendment thereof only after public hearing.

(c) The site selection analysis shall demonstrate the relationship of the proposed project, and its specific location, to the master siting study. Prior to submitting the site selection analysis, the applicant shall circulate it for comment among other interested public utilities, the Federal and State governmental agencies having jurisdiction over the siting of electric generating stations in the State in which the project is located, regional or county planning commissions having jurisdiction in the project area, and such major water users as the Commission shall designate, and such comments shall be appended to and submitted together with the application. Prior to acting on the application, the Commission will make the site selection analysis available for public review and comment.

(d) The Commission will review each application for a major electric generating project with reference to the doctrine of equitable apportionment, including such priority of uses as will recognize alternative water resources and sites for electric generating projects, the increasing demands on the water resources of the basin and the optimum beneficial use of the water resources of the basin.

(e) The Commission will not act upon an application for approval under section 3.8 of the Compact to initiate a partial or preliminary phase of an electric generating project which is subject to the regulations in this part unless the application conforms to requirements of paragraph (a) of this section.

§ 401.38 Sequence of approval.

A project will be considered by the Commission under section 3.8 of the Compact either before or after any other State or Federal review, in accordance with the provisions of the Administrative Agreement applicable to such project.

§ 401.39 Form of referral by State or Federal agency.

Upon approval by any State or Federal agency of any project reviewable by the Commission under this part, if the project has not prior thereto been reviewed and approved by the Commission, such agency shall refer the project for review under section 3.8 of the Compact in such form and manner as shall be provided by Administrative Agreement.

§ 401.40 Form of submission of projects not requiring prior approval by State or Federal agencies.

Where a project does not require approval by any other State or Federal agency, or where such approval is required but an Administrative Agreement is not in force, the project shall be submitted directly to the Commission for review and determination of compatibility with the Comprehensive Plan, in such form of application, with such supporting documentation, as the Executive Director may reasonably require for the administration of the provisions of the Compact. These shall include without limitation thereto:

(a) *Exhibits to accompany application.* The application shall be accompanied by the following exhibits:

(1) Abstract of proceedings authorizing project, where applicable.

(2) General map showing specific location and dimension of a structural project, or specific language of a standard or policy in the case of a non-structural proposal.

(3) Section of the United States Geological Survey topographic map showing the territory and watershed affected.

(4) Maps, drawings, specifications and profiles of any proposed structures, or a description of the specific effects of a non-structural project.

(5) Written report of the applicant's engineer showing the proposed plan of operation of a structural project.

(6) Map of any lands to be acquired or occupied.

(7) Estimate of the cost of completing the proposed project, and sufficient data to indicate a workable financial plan under which the project will be carried out.

(8) A description of the construction procedures to be followed in excavating, backfilling, retention of sediment, reseeding and landscaping, all with particular reference to minimizing soil erosion and sedimentation in the stream.

(b) *Letter of transmittal.* The application shall be accompanied by a letter of transmittal in which the applicant shall include a list of all enclosures, the names and addresses to which communications may be directed to the applicant, and the names and addresses of the applicant's engineer and counsel, if any.

(c) *Number of copies.* Unless otherwise ordered by the Commission, two copies of the application and accompanying papers shall be filed. If any application is contested, the Commission may require additional copies of the application and all accompanying papers to be furnished by the applicant. In such cases, certified copies or photographic prints or reproductions may be used.

§ 401.41 Preliminary action; Informal conference; Emergencies.

(a) Whenever the Executive Director shall deem necessary, or upon request of the applicant, an informal conference may be scheduled to explain, supplement or review an application.

(b) Whenever the Executive Director determines that an application is for a project not included in the classes listed in § 401.35 which would not have a substantial effect upon the water resources of the basin within the meaning of section 3.8 of the Compact, he may, subject to the approval of the chairman of the Commission, so certify to the applicant. At the next meeting of the Commission, the Executive Director shall report all such certifications not previously reported. Any project which has been so certified need not be further reviewed by the Commission unless an objection thereto is taken by the Commission at the meeting at which such certification is reported.

(c) In the event of an emergency requiring immediate action to protect the public interest or to avoid substantial and irreparable injury to any private person or property, and the circumstances do not permit a review, hearing and determination in the regular course of the regulations in this part, the Executive Director with the approval of the chairman of the Commission may issue an emergency certificate authorizing an applicant to take such action as the Executive Director may deem necessary and proper in the circumstances, pending review, hearing and determination by the Commission as otherwise required in this part.

§ 401.42 Hearings.

(a) The Executive Director may, and whenever any substantial objection is filed pursuant to this section shall, cause a hearing to be scheduled upon an application received under § 401.40. He may, and at the request of the applicant shall, cause a hearing to be scheduled as to any application referred under § 401.39. Notice of the intention of the Commission to act upon an application received pursuant to § 401.40, or upon a request for a hearing with regard to an application received pursuant to § 401.39, shall be published by the Executive Director in one or more newspapers of general circulation in the area affected, at least once a week for two successive weeks, which publications shall not be less than seven nor more than 21 days prior to the date on which action is proposed to be taken. Such notice shall direct any person objecting to the application to file his objection with the Commission not later than two days before the scheduled date of action. If the Executive Director determines that any filed objection is substantial, he shall defer consideration by the Commission, furnish a copy of each such objection to the applicant, and schedule a hearing on the application to be held not less than ten nor more than 30 days after the last day for filing objections. Notice of the hearing shall be served forthwith by certified mail upon the applicant and each person filing a substantial objection. Proof of such publication and of service of notice shall be filed with the Commission on or before the date for which the hearing is scheduled.

(b) The application and supporting documents, maps and data, as filed or amended shall be open to inspection by any interested person prior to the hearing.

§ 401.43 Objections.

Every objection filed pursuant to § 401.42 shall be in writing and shall particularly specify the ground thereof. Amendments to the objections may be permitted by the Commission. All objections and supporting documents shall be filed in duplicate in such form as the Executive Director may prescribe. No person may be heard in opposition to an application except on objections so filed. Such objections shall be heard and determined under the procedure prescribed by Subpart F, Hearings.

§ 401.44 Limitation of approval.

Approval by the Commission under this part shall expire three years from the date of Commission action unless prior thereto the sponsor has expended substantial funds (in relation to the cost of the project) in reliance upon such approval. An approval may be extended or renewed by the Commission upon application.

§ 401.45 Certificate of compliance.

The Executive Director, upon application duly made to him, and after appropriate inspection and such other proof as may be required, may certify to any applicant that the applicant has duly complied with the requirements of any action or determination by the Commission pursuant to this part. The Executive Director may make such certification whenever he finds and determines that there has been sufficient compliance to satisfy the purposes and objectives of the Commission's action or determination notwithstanding the existence of any technical variation or omission in the work done. All such certifications shall be reported to the Commission at its next meeting thereafter.

§ 401.46 Water quality certifications.

(a) The Commission will rely upon the respective signatory parties for the issuance of certifications of publicly or privately-owned waste treatment works under section 401 of the Federal Water Pollution Control Act Amendments of 1972.

(b) In all other cases a certificate under said section 401 may be issued by the Executive Director following appropriate findings and determinations after public notice and hearing (if any) by the Executive Director or the Commission, as the case may be.

Subpart D—Preparation and Processing of Environmental Impact Statements

§ 401.51 Scope.

(a) *Purpose.* The National Environmental Policy Act of 1969 implemented by Executive Order 11514, mandates that all Federal agencies, to the fullest extent possible, direct their policies, plans and programs so as to meet national environmental goals. Section 105 of the Act provides that "The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies." Section 102(2)(C) of the Act and the Council on Environmental Quality's Guidelines of April 23, 1971, (36 FR 7724) require that all Federal agencies prepare environmental statements on all major Federal actions significantly affecting the quality of the human environment. The objective of the Act is to build into the agency decision-making process, beginning at the earliest possible point, an appropriate and careful consideration of the environmental aspects of proposed actions and to assist agencies in implementing the policies as well as the letter of the Act.

(b) *Policy.* The Delaware River Basin Commission will, in consultation with other appropriate Federal, State and local agencies and the public, assess the environmental impacts of any proposed action concurrent with initial technical and economic studies in order that adverse effects will be avoided, and environmental quality will be maintained, restored or enhanced, to the fullest extent practicable. In particular, alternative actions that will minimize adverse impacts will be explored and both the long and short-range implications to man, his physical and social surroundings, and to nature, will be evaluated in order to avoid, to the fullest extent practicable, undesirable consequences as they relate to the quality of the human environment. This assessment shall take place as early as possible and in all cases prior to any decision that may significantly affect the environment and, where required, a draft environmental impact statement will be prepared and circulated in accordance with the regulations in this part.

(c) *Definitions.* "Action" is a resolution by the Commission approving, disapproving, modifying or otherwise disposing of a project, program, legislation or any part thereof.

"Applicant" is proposed action's sponsor, including the Commission when it sponsors an action.

"Environment" for the purposes of the regulations in this part is the major natural, man-made or affected environment as implied by the National Environmental Policy Act of 1969.

"Environmental assessment" is an analysis by the Commission prior to the preparation of an environmental impact statement, of an applicant's environmental report or of a Commission-sponsored action to determine whether the action proposed will have a significant effect involving the quality of the human environment.

"Environmental impact statement" is a document prepared by the Commission which identifies and analyzes in detail the environmental impacts of a major action by the Commission having significant effects involving the quality of the human environment.

"Environmental report" is a document to be submitted by applicants proposing an action which requires an environmental assessment.

"Negative declaration" is a determination by the Executive Director, based upon an environmental assessment, that a proposed action will not require an environmental impact statement.

"Notice of intent" is an announcement to other Federal, State and local agencies and to the public that the Commission will be preparing an environmental impact statement for a given action.

"Responsible official" is the Executive Director or his designee of the Delaware River Basin Commission.

"Significant effect" is that degree of impact upon the quality of the human environment determined by the Commission or the Executive Director as sufficient to justify an environmental impact statement.

§ 401.52 Actions requiring an environmental report.

The applicant for any action within the following classifications shall submit not later than the completion of preliminary engineering or feasibility studies, an environmental report.

(a) All action required by the regulations in this part to include an environmental impact statement.

(b) Major actions the Commission may wish to initiate.

(c) Action to include in the Commission's Comprehensive Plan the following:

(1) Major policy or regulations significantly affecting the quality of the human environment.

(2) Master plans including a sequence of the contemplated projects which together may have a significant effect upon the quality of the human environment.

(d) When requested by the Executive Director based upon an environmental review of the action.

§ 401.53 Applicant's environmental report.

Upon receipt of the report, the Executive Director shall prepare an environmental assessment of the action. Additional information, studies, maps, etc., may be requested from the applicant. The environmental assessment will be the basis for the determination of the need for an environmental impact statement. A supplemental guideline covering the substantive contents of an environmental report will be made available to all applicants. In brief, an environmental report will include the following:

(a) A description of the proposed action, including the decision-making process, discussing alternatives to illustrate why the proposed action was chosen.

(b) A description of the existing environmental setting without the proposed action.

(c) The probable anticipated environmental impact primary and secondary, including both beneficial and unavoidable adverse effects from the proposed action and the basis for the conclusion. Resources irreversibly and irretrievably committed should be identified.

(d) All reasonable alternatives to the proposed action that have been considered including that of no action.

(e) An evaluation of environmental benefits, costs and risks, including short-term uses versus long-term productivity, weighing the proposed action and the alternatives considered against the quality of the human environment.

(f) Any other information, data, maps, charts, etc., which may be requested by the Commission for use in their analysis of the proposed action.

§ 401.54 Environmental assessment.

An environmental review will be made for those actions requiring an environmental report. The assessment is made to identify and evaluate the expected and potential environmental impacts of the action and the alternatives considered. The assessment will determine whether significant impact upon the environment can be anticipated from the proposed action. The results of an environmental assessment will be either the preparation of the environmental impact statement or a negative declaration. The contents of an environmental assessment will include the following:

(a) Description of the project.

(b) Analysis of significant impacts.

(c) Summation of any objections.

(d) Agencies consulted and their concerns, if any, including interested State, regional, county and local agencies. The Environmental Protection Agency will be consulted in all instances.

(e) Conclusions.

§ 401.55 Negative declaration.

(a) A negative declaration may be issued by the Executive Director prior to taking any official action on a project which, as a result of an environmental assessment (§ 401.54), has been determined will not cause significant environmental impacts. The assessment will become a part of the project's records and be available for public inspection.

(b) Prior to the issuance of a negative declaration, the Executive Director shall publish notice of his intent to do so unless good cause to proceed with an environmental impact statement is submitted in writing by any interested person or agency within 15 days from the date of the notice publication.

(c) The negative declaration will include the environmental assessment, copies of any relevant correspondence and the official determination by the Executive Director that the proposed action is not a major action significantly affecting the quality of the human environment.

(d) Once a negative declaration has been made, the proposed project may immediately proceed to Commission action.

(e) When a negative declaration has been made for a proposed action ordi-

narily requiring the preparation of an environmental impact statement under the provisions of § 401.56, the declaration, complete with the environmental assessment, will be made available to the public.

§ 401.56 Actions requiring an environmental impact statement.

The list of general classifications which require an environmental impact statement is based upon the reviewable projects activity of the Commission. These actions have been identified by an analysis of environmental impacts typically associated with the principal types of Commission action. Where an environmental impact statement is prepared for a master plan or program having a chain of contemplated projects, subsequent statements on major components will be required only where significant impacts were not adequately evaluated in the overview statement relating to the total plan or program. Inclusion of the action in the Comprehensive Plan prior to January 1, 1970, does not exempt the action from an environmental impact statement. Actions identified as requiring an environmental impact statement include the following:

(a) Any project, plan, regulation or policy identified via the process of an environmental assessment as having significant effect upon the quality of the human environment.

(b) Major large-scale programs or master plans involving a sequence of contemplated projects including new towns, watershed programs, wastewater and water supply plans and recreation plans.

(c) Impoundments.

(d) Diversions.

(e) Fossil-fueled electric generating stations.

(f) Liquid petroleum products pipelines.

(g) Draining or filling or otherwise altering marshes or wetlands.

(h) Substantial encroachments upon a stream or upon the 100-year flood plain of the Delaware River or its tributaries.

(i) Any other action which the Executive Director, in his discretion, determines is a major action which may have a significant effect upon the quality of human environment and/or environmental impact which is substantially controversial.

§ 401.57 Lead agency.

The Executive Director shall review the proposed action with other Federal agencies to determine whether DRBC should be lead agency for the preparation of the environmental impact statement. Cooperative and/or joint agency efforts will be taken whenever practicable. When any action requiring an environmental impact statement under the regulations in this part is also required to have an environmental impact statement by regulations of another Federal agency, the Executive Director will consult with such agency and establish appropriate lead agency arrangements that will meet the requirements of the National Environmental Policy Act and the revised (June 1973) Council on Environmental Quality Guidelines, to avoid duplication. If another Federal agency, in its role as lead agency, has determined that, after an environmental assessment, any project listed in the regulations in this part does not require an environmental impact statement, the Executive Director shall request from the lead agency a letter to that effect and after a review of the project may exempt the project from this section.

§ 401.58 Early notice.

Once the determination has been made that a project requires an environmental impact statement, a public announcement, hereinafter called Notice of Intent, shall be issued to the Council on Environmental Quality, appropriate Federal, State and municipal agencies, and be publicly posted in the Commission headquarters. The Notice of Intent shall also be sent to citizens and citizens organizations identified as having an interest in the project. The Notice of Intent shall define the Commission as lead agency and request comments which may be helpful in the preparation of the draft statement. A current list of administrative actions for which environmental impact statements is being prepared and will be available for public inspection upon request.

§ 401.59 Pre-draft consultation with appropriate agencies.

(a) *Consultation with Federal agencies.* When the Commission is considering an action requiring an environmental impact statement, it will, prior to the preparation of the draft statement, consult with Federal agencies having jurisdiction over reasonable alternatives to the proposed action or jurisdiction by law or special expertise with respect to the environmental impacts of the proposed action and reasonable alternatives.

(b) *Consultation with State and local agencies.* In every case in which implementation of the proposed action or its reasonable alternatives would require exercise of authority by a State or local agency, that agency will be consulted prior to the preparation of the draft statement. Use will be made of the State and local A–95 clearinghouses.

§ 401.60 Draft environmental impact statement.

The Executive Director shall prepare a substantive draft environmental impact statement as soon as practicable after the decision that the statement is necessary. Where a plan or program has been developed, the relationship between the plan and the subsequent projects or phases encompassed by it shall be evaluated to determine the preferable and most meaningful point in time for preparing a statement. Where practicable the statement will be drafted for the total program at the completion of the overall planning stage. Individual actions included in the plan will not require separate statements except where significant change has occurred. A supplemental statement will be issued covering only that change. The discussion of alternatives to the proposed action and their impact on the environment will accompany the proposed action through the Commission's entire review process. Generally the content of an environmental impact statement will include the following: (Substantive description of the content is available in supplemental guidelines upon request).

(a) Summary.

(b) Description of the proposed action, statement of its purpose and its components in detail commensurate for an assessment of potential environmental impact.

(c) A succinct description of the environmental setting without the proposed action.

(d) The relationship of the proposed action to water and land use plans, policies and controls for the affected area.

(e) The probable impact of the proposed action on the environment, beneficial and adverse, including secondary or indirect, as well as primary or direct, consequences.

(f) Any probable adverse environmental effects which cannot be avoided, summarizing those effects discussed in paragraph (e) of this section that are adverse and unavoidable.

(g) All reasonable alternatives to the proposed action that have been considered including that of no action, with an objective evaluation of the environmental impacts from each.

(h) An evaluation of the proposed action in relation to short-term use of man's environment and the maintenance and enhancement of long-term productivity.

(i) Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented.

(j) An indication of other interests and considerations of Federal policy thought to offset the adverse environmental effects of the proposed action.

(k) When determined by the Executive Director as necessary, an evaluation of environmental benefits, costs and risks of the proposed action compared to the alternatives considered against the quality of the human environment.

§ 401.61 Processing the draft environmental impact statement.

(a) The Executive Director shall distribute ten copies of the draft environmental impact statement and two completed National Technical Information Service (NTIS) accession notice cards to the Council on Environmental Quality.

(b) The Executive Director shall announce to other agencies and the general public via the FEDERAL REGISTER and in accordance with other chapters and sections of the Administrative Manual, both the availability of the draft environmental impact statement and the date of a public hearing on environmental factors which will be held not less than 15 days after the draft environmental impact statement has been made available to the public.

(c) Concurrent with the announcement of availability, the Executive Director shall provide copies of the draft environmental impact statement to the Environmental Protection Agency and to appropriate field offices of reviewing Federal agencies that have special expertise or jurisdiction by law with respect to any impacts involved as listed in Appendix II of the Council on Environmental Quality's guidelines. At the same time, copies shall also be provided to the appropriate State and local agencies and to interested organizations and persons.

(d) All comments made upon the draft environmental impact statement should be submitted to DRBC within 45 days after the date of publication in the FEDERAL REGISTER announcing the availability of the draft. Extensions of review time will be at the discretion of the Executive Director.

§ 401.62 Final environmental impact statement.

Following receipt of comments on the draft environmental impact statement and public hearing, the Executive Director shall prepare a final environmental impact statement responding to written and/or recorded suggestions, criticisms and comments raised through the review of the draft statement. Distribution will be to the Council on Environmental Quality, the Environmental Protection Agency and those who respond to the draft statement and to written requests.

§ 401.63 Public availability of statements.

All draft and final environmental impact statements, including comments received thereon, shall be available for public examination as per the Freedom of Information Act in the Commission's offices and such other offices as the Executive Director may designate.

§ 401.64 Earliest date for Commission action.

As directed by the Commission, the Executive Director will forward the final environmental impact statement to the Council on Environmental Quality. The Commission will act upon a project that is subject to the requirements of this section not less than 90 days after a draft environmental impact statement has been released for public comment and not less than 30 days (which may run concurrently within the 90 days) after the final environmental impact statement has been received by the Council on Environmental Quality. The Commission will include or refer to the environmental assessment or the environmental impact statement, and will make specific findings and conclusions with respect to the environmental effects of the project.

§ 401.65 Emergency circumstances.

In the event of emergency circumstances those projects requiring an environmental impact statement as provided for in § 401.41, the Executive Director will consult with the Council on Environmental Quality with respect to waiver, suspension or deferment of the requirements of this Subpart before any action is taken.

§ 401.66 Adequacy of draft and final environmental impact statements.

The draft and final environmental impact statements will represent the Commission's independent evaluation of the environmental impacts of the action and the appropriate alternatives to the proposed action. Redraft statements will be prepared if, prior to the submission of a final statement to the Council on Environmental Quality, the original draft is inadequate because significant information relevant to the total action was omitted from the original draft or only came to light after circulation of the original draft. All redraft statements shall be circulated for comment in the same manner as original draft environmental impact statements.

§ 401.67 Procedure for commenting upon environmental impact statements.

(a) Comments prepared on draft environmental impact statements authored by other agencies will be based upon the relationship of the action proposed to the Commission's Comprehensive Plan.

(b) Comments will be organized consistent with the structure of the draft statement and will be as specific, substantive and factual as possible.

(c) Five copies of all comments made thereon will be furnished to the Council on Environmental Quality.

Subpart E—Review in Water Quality Cases

§ 401.71 Scope.

This Subpart shall apply to the review, hearing and decision of objections and issues arising as a result of administrative actions and decisions taken or rendered under the Basin Regulations.

§ 401.72 Notice and request for hearing.

The Executive Director shall serve notice of an action or decision by him under the Basin Regulations by personal service or certified mail, return receipt requested. The affected discharger shall be entitled (and the notice of action or decision shall so state) to show cause at a Commission hearing why such action or decision should not take effect. A request for such a hearing shall be filed with the Secretary of the Commission not more than 20 days after service of the Executive Director's determination. Failure to file such a request within the time limited shall be deemed to be an acceptance of the Executive Director's determination and a waiver of any further hearing.

§ 401.73 Form of request.

A request for a hearing may be informal but shall indicate the name of the individual and the address to which an acknowledgment may be directed. It may be stated in such detail as the objector may elect. The request shall be deemed filed only upon receipt by the Commission.

§ 401.74 Report.

Whenever the Executive Director determines that the request for a hearing is insufficient to identify the nature and scope of the objection, or that one or more issues may be resolved, reduced or identified by such action, he may require the objector to prepare and submit to the Commission, within such reasonable time (not less than 20 days) as he may specify, a technical report of the facts relating to the objection prior to the scheduling of the hearing. The report shall be required by notice in writing served upon the objector by certified mail, return receipt requested, addressed to the person or entity filing the request for hearing at the place indicated in the request.

§ 401.75 Form and contents of report.

(a) *Generally.* A request for a report under this subpart may require such information and the answers to such questions as may be reasonably pertinent to the subject of the action or determination under consideration.

(b) *Waste loading.* In cases involving objections to an allocation of the assimilative capacity of a stream, the report shall be signed and verified by a technically qualified person having personal knowledge of the facts stated therein, and shall include such of the following items as the Executive Director may require:

(1) A specification with particularity of the ground or grounds for the objection; and failure to specify a ground for objection prior to the hearing shall foreclose the objector from thereafter asserting such a ground at the hearing;

(2) A description of industrial processing and waste treatment operational characteristics in such detail as to permit an evaluation of the character, kind and quantity of the discharges, both treated and untreated, including the physical, chemical and biological properties of any liquid, gaseous, solid, radioactive, or other substance composing the discharge in whole or in part;

(3) The thermal characteristics of the discharges and the level of heat in flow;

(4) Information in sufficient detail to permit evaluation in depth of any in-plant control or recovery process for which credit is claimed;

(5) An analysis of all the parameters that may have an effect on the strength of the waste or impinge upon the water quality criteria set forth in the Basin Regulations, including a determination of the rate of biochemical oxygen demand and the projection of a first-stage carbonaceous oxygen demand;

(6) Measurements of the waste as closely as possible to the processes where the wastes are produced, with the sample composited either continually or at frequent intervals (one-half hour or, where permitted by the Executive Director, one hour periods), so as to represent adequately the strength and volume of waste that is discharged; and

(7) Such other and additional specific technical data as the Executive Director may reasonably consider necessary and useful for the proper determination of a wasteload allocation.

§ 401.76 Protection of trade secrets; confidential information.

No person shall be required in such report to divulge trade secrets or secret processes. All information disclosed to any Commissioner, agent or employee of the Commission in any report required by these Rules shall be confidential for the purposes of section 1905 of title 18 of the United States Code which provides:

Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation or association, or permits any income return or copy thereof to be seen or examined by any persons except as provided by law; shall be fined not more than $1,000 or imprisoned not more than one year, or both; and shall be removed from office or employment. June 25, 1948, C.645, 62 Stat. 791.

§ 401.77 Failure to furnish report.

The Executive Director may, upon five days' notice to the objector, dismiss the request for a hearing as to any objector who fails to file a complete report within such time as shall be prescribed in the Director's notice.

§ 401.78 Informal conference.

Whenever the Executive Director deems it appropriate, he may cause an informal conference to be scheduled between an objector and such member of the Commission staff as he may designate. The purpose of such a conference shall be to resolve or narrow the ground or grounds of the objections.

§ 401.79 Consolidation of hearings.

Following such informal conferences as may be held, to the extent that the same or similar grounds for objections are raised by one or more objectors, the Executive Director may in his discretion and with the consent of the objectors, cause a consolidated hearing to be scheduled at which two or more objectors asserting that ground may be heard.

Subpart F—Conduct of Hearings

§ 401.81 Hearings generally.

(a) *Scope of subpart.* This subpart shall apply to hearings required for the purposes of subparts C and D of this part and, to the extent applicable, to the conduct of administrative hearings for which no other provision is made by statute or regulation.

(b) *Timely request.* Any person aggrived by any action or decision of the Executive Director taken under any Basin Regulation shall be entitled, upon timely filing of a request therefor, to a hearing in accordance with these regulations.

(c) *Optional joint hearings.* Whenever designated by a department, agency or instrumentality of a signatory party, and within any limitations prescribed by the designation, a hearing officer designated pursuant to this subpart may serve as a hearing officer, examiner or agent pursuant to such additional designation. The hearing officer may conduct joint hearings for the Commission and for such other department, agency or instrumentality. Pursuant to the additional designation, a hearing officer shall cause to be filed with the department, agency or instrumentality making the designation, a certified copy of the transcript of the evidence taken before him and, if requested, of his findings and recommendations. Neither the hearing officer nor the Delaware River Basin Commission shall have or exercise any power or duty as a result of such additional designation to decide the merits of any matter arising under the separate laws of a signatory party (other than the Delaware Basin Compact).

(d) *Schedule.* The Executive Director shall cause the schedule for each hearing to be listed in advance upon a "hearing docket" which shall be posted in public view at the office of the Commission.

§ 401.82 Hearing officer.

(a) *Generally.* Hearings shall be conducted by one or more members of the Commission, by the Executive Director, or by such other hearing officer as the chairman may designate, except as provided in paragraph (b) of this section.

(b) *Wasteload allocation cases.* In cases involving the allocation of the assimilative capacity of a stream:

(1) The Executive Director shall appoint a hearing board of at least two persons. One of them shall be nominated by the water pollution control agency of the state in which discharge originates, and he shall be chairman. The board shall have and exercise the powers and duties of a hearing officer;

(2) A quorum of the board for purposes of the hearing shall consist of two members; and

(3) Questions of practice or procedure during the hearing shall be determined by the chairman.

§ 401.83 Hearing procedure.

(a) The hearing officer shall have the power to rule upon offers of proof and the admissibility of evidence, to regulate the course of the hearings, and to hold conferences for the settlement or simplification of issues.

(b) The hearing officer shall cause each witness to be sworn or to make affirmation.

(c) Any party to a hearing shall have the right to present evidence and to examine and cross-examine witnesses.

(d) When necessary, in order to prevent undue prolongation of the hearing, the hearing officer may limit the number of times any witness may testify, the repetitious examination or cross-examination of witnesses, or the extent of corroborative or cumulative testimony.

(e) The hearing officer shall exclude irrelevant, immaterial or unduly repetitious evidence, but the parties shall not be bound by technical rules of evidence, and all relevant evidence of reasonably probative value may be received.

(f) Any person entitled to be heard may appear and be heard in person or be represented by an attorney at law or, if the applicant is a corporation, by its corporate officer, an authorized employee, or by an attorney at law.

(g) Briefs and oral argument may be required by the hearing officer and shall be permitted upon request made prior to the close of the hearing by any party. They shall be part of the record unless otherwise ordered by the hearing officer.

§ 401.84 Staff and other expert testimony.

(a) The Executive Director shall arrange for the presentation of testimony by the Commission's technical staff and other experts, as he may deem necessary or desirable, to incorporate in the record or support the administrative action, determination or decision which is the subject of the hearing.

(b) A part to the hearing may submit the testimony of an expert witness, to be made part of the record, whether or not the expert is present, provided that such testimony has been reduced to writing, sworn, and copies thereof distributed to all parties appearing at the hearing. Such testimony, however, shall not be admitted whenever the expert is not present and available for cross-examination at the hearing unless the testimony shall have been made available to all parties of record at least five days prior to the hearing and all parties have waived the right of cross-examination.

§ 401.85 Record of proceedings.

A record of the proceedings and evidence at each hearing shall be made by a qualified stenographer designated by the Executive Director. Where demanded by the applicant, objector, or any other person who is a party to these proceedings, or where deemed necessary by the hearing officer, the testimony shall be transcribed. In those instances where a transcript of proceedings is made, two copies shall be delivered to the Commission. The applicant, objector, or other person who desires copies shall obtain them from the stenographer at such price as may be agreed upon by the stenographer and the person desiring the transcript.

§ 401.86 Findings and report.

The hearing officer shall prepare a report of his findings and recommendations. In the case of an objection to a wasteload allocation, the hearing officer shall make specific findings of a recommended allocation of carbonaceous oxy-

gen demand, which may increase, reduce or confirm the Executive Director's determination. The report shall be served by personal service or certified mail (return receipt requested) upon each party to the hearing or its counsel unless all parties have waived service of the report. The applicant and any objector may file objections to the report within 20 days after the service upon him of a copy of the report. A brief shall be filed together with any objections. The report of the hearing officer together with objections and briefs shall be promptly submitted to the Commission. The Commission may require or permit oral argument upon such submission prior to its decision.

§ 401.87 Action by the Commission.

The Commission will act upon the findings and recommendations of the hearing officer pursuant to law. The determination of the Commission will be in writing and shall be filed together with any transcript of the hearing, report of the hearing officer, objections thereto, and all plans, maps, exhibits and other papers, records or documents relating to the hearing. Subject to the provisions of section 2-4.6, all such records, papers and documents may be examined by any person at the office of the Commission, and shall not be removed therefrom except temporarily upon the written order of the Secretary after the filing of a receipt therefor in form prescribed by the Secretary. Copies of any such records and papers may be made in the office of the Commission by any person, subject to such reasonable safeguards for the protection of the records as the Executive Director may require.

Subpart G—General Provisions

§ 401.91 Definitions.

For the purposes of the regulations in this part, except as the context may otherwise require:

(a) All words and phrases which are defined by section 1.2 of the Compact shall have the same meaning herein.

(b) Words and phrases which are defined by Part I of the Administrative Manual (Section 1-3) shall have the same meaning for the purposes of this Part 401.

(c) "Application" shall mean a request for action by the Commission in any written form, including without limitation thereto, a letter, referred by any agency of a signatory party, or an official form prescribed by the Commission; *Provided*, That whenever an official form of application has been duly required, an application shall not be deemed to be pending before the Commission until such time as such form, together with the information required thereby, has been completed and filed.

(d) "Applicant" shall mean any sponsor or other person who has submitted an application to the Commission.

(e) "Sponsor" shall mean any person authorized to initiate, construct or administer a project.

§ 401.92 Supplementary details.

Forms, procedures and supplementary information, to effectuate these regulations, may be provided or required by the Executive Director as to any hearing, project or class of projects.

§ 401.93 Waiver of rules.

The Commission may, for good cause shown, waive rules or require additional information in any case.

§ 401.94 Construction.

This part is promulgated pursuant to section 14.2 of the Compact and shall be construed and applied subject to all of the terms and conditions of the Compact and of the provisions of section 15.1 of Public Law 87-328, 75 Stat. 688.

[FR Doc.74-15879 Filed 7-10-74;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

COMPONENTS OF PAPER AND PAPERBOARD IN CONTACT WITH AQUEOUS AND FATTY FOODS

Notice was given in the FEDERAL REGISTER of August 2, 1972 (37 FR 15443) that a petition (FAP 2B2809) had been filed by Air Products and Chemicals, Inc., 5 Executive Mall, Swedesford Road, Wayne, PA 19087, proposing that § 121.2526 (21 CFR 121.2526) be amended to provide for safe use of vinyl acetate-ethylene-*N*-methylol acrylamide terpolymers as a flexible binder coating for paper and paperboard intended to contact food.

Also, notice was given in the FEDERAL REGISTER of August 3, 1972 (37 FR 15530) that a petition (2B2808) had been filed by Air Products and Chemicals, Inc., proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for safe use of α-[*p*-(1,1,3,3-tetramethylbutyl)phenyl]-*omega*-hydroxypoly (oxyethylene) sodium sulfate ester as a surface active agent in the manufacture of paper and paperboard intended to contact food.

The Commissioner of Food and Drugs, having evaluated the data in these petitions and other relevant material, concludes that the food additive regulations should be amended to provide for safe use of the subject additives under the preferred description and nomenclature as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2526(b)(2) is amended by alphabetically inserting in the list of substances two new items as follows:

§ 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(b) * * *

(2) * * *

List of substances	*Limitations*
* * *	* * *
α-[*p*-(1,1,3,3-Tetramethylbutyl) phenyl]-*omega*-*hydroxypoly* (oxyethylene) hydrogen sulfate, sodium salt mixture with α-[*p*-(1,1,3,3-tetramethylbutyl) phenyl]-*omega*-hydroxypoly (oxyethylene) with both substances having a poly (oxyethylene) content averaging 3 moles.	For use only as a surface-active agent at levels not to exceed 3 percent by weight of vinyl acetate polymer with ethylene and *N*-(hydroxymethyl) acrylamide intended for use in coatings for paper and paperboard intended for use in contact with foods: 1. Of the types identified in paragraph (c) of this section, table 1, under types I, II, III, IV, VI B, and VII, and under the conditions of use described in paragraph (c) of this section, table 2, conditions of use E, F, and G. 2. Of the types identified in paragraph (c) of this section, table 1, under types V, VIII, and IX and under the conditions of use described in paragraph (c) of this section, table 2, conditions of use C, D, E, F, and G.
* * *	* * *
Vinyl acetate polymer with ethylene and *N*-(hydroxymethyl) acrylamide containing not more than 6 weight percent of total polymer units derived from *N*-(hydroxymethyl) acrylamide.	For use only in coatings for paper and paperboard intended for use in contact with foods: 1. Of the types identified in paragraph (c) of this section, table 1, under types I, II, III, IV, VI B, and VII and under the conditions of use described in paragraph (c) of this section, table 2, conditions of use E, F, and G. 2. Of the types identified in paragraph (c) of this section, table 1, under types V, VIII, and IX and under the conditions of use described in paragraph (c) of this section, table 2, conditions of use C, D, E, F, and G.
* * *	

Any person who will be adversely affected by the foregoing order may at any time on or before August 12, 1974 file with the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be

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

Effective date. This order shall become effective July 11, 1974.

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

Dated: July 2, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-15743 Filed 7-10-74;8:45 am]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

GLYCINE

A food additive regulation (21 CFR 121.12) published in the FEDERAL REGISTER of May 13, 1970 (35 FR 7414), as amended by a document published in the FEDERAL REGISTER of December 4, 1970 (35 FR 18458), rescinded correspondence in which the Food and Drug Administration had expressed opinions that glycine is generally recognized as safe for certain technical effects in human food and provided that by May 8, 1971, manufacturers must either reformulate food products to eliminate added glycine, and its salts, or bring such products into compliance with an authorizing food additive regulation. Section 121.12 was premised upon reports in scientific literature which indicate that adverse effects were found when high levels of glycine was administered in the diets of experimental animals and upon current usage information which suggests that the daily dietary intake of glycine may be substantially increasing due to changing use patterns in food technology.

Pursuant to § 121.12, a number of firms filed food additive petitions proposing the issuance of regulations to provide for the safe use of glycine in food. However, these petitions lacked adequate data with respect to purported technical effects and/or adequate methods for enforcing the proposed tolerances. In order to provide for the interim use of glycine, the Commissioner of Food and Drugs proposed in the FEDERAL REGISTER of July 24, 1971 (36 FR 13790) the issuance of a "provisional" food additive regulation (21 CFR 121.4002) to permit the safe use of glycine for certain technical purposes, as set forth below, for a limited period of time, pending the development of additional data to complete the requirements of food additive petitions pursuant to 21 CFR 121.51:

Uses	*Limitations*
As a masking agent for the bitter aftertaste of sacharin in carbonated, artificially sweetened beverages.	Not to exceed 0.2 percent of the finished product.
As a flavor agent in butterscotch and toffee flavorings employed in the manufacture of frosting mixes.	Not to exceed 0.9 percent of the flavorings.
As a stabilizer in mono- and diglycerides prepared by the glycerolysis of edible fats or oils.	Not to exceed 0.02 percent of the mono- and diglycerides.

Since publication of the proposal, the petition proposing use of glycine as a flavor agent in butterscotch and toffee flavorings (FAP 1A2674, submitted by Borden, Inc., 650 Madison Ave., New York, NY 10017) has been withdrawn, notice of which was published in the FEDERAL REGISTER of November 25, 1971 (36 FR 22617), and the petitions proposing other uses of glycine (FAP 1A2573, submitted by No-Cal Corp., 921 Flushing Ave., Brooklyn, NY 11206, and Cott Corp., 197 Chatham St., New Haven, CT 06513, and FAP 1A2675, submitted by Eastman Chemical Products, Inc., Kingsport, TN 37662) have been supplemented with the additional data needed for issuance of a final food additive regulation. Since the petition supporting one of the proposed "provisional" uses has been withdrawn, and a food additive regulation (21 CFR 121.1257) is being promulgated for the remaining uses, the proposal to establish a "provisional" food additive regulation for these technical uses of glycine has become moot. Accordingly, a notice of termination of proposed rule making concerning glycine is published elsewhere in this issue of the FEDERAL REGISTER.

Although the proposed rule making concerning glycine is being terminated, the Commissioner concludes that it would be useful to the public to discuss here the comments received in response to the proposal, since the comments were considered and used in the development of the food additive regulation being promulgated by this order and because the comments provide an appropriate vehicle for clarification of the regulatory status of glycine, which may be helpful to persons seeking additional regulations concerning the substance.

Five comments were received in response to the proposal. A summary of the comments and the Commissioner's responses are as follows:

1. One comment expressed the need to permit the use of glycine in human diet for certain nutritive purposes.

The Commissioner's response is that proposed § 121.4002 concerned the use of glycine for technical effects in food. Nutritive use of glycine is a subject beyond the scope of proposed § 121.4002 as well as the food additive regulation being promulgated by this order. A food additive regulation (21 CFR 121.1002) establishing safe conditions of nutritional use of glycine and other amino acids was published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20036). Thus, nutritive use of glycine is governed by § 121.1002, while use of glycine for technological purposes is governed by § 121.1257 of the food additive regulations. The Commissioner advises that any person who wishes to propose amendments to the regulations governing use of glycine in food should petition for amendment of § 121.1002 if the use involved is nutritional or § 121.1257 if the use involved is technological.

2. Two comments suggested that the proposed use of glycine as a masking agent in saccharin-sweetened, carbonated beverages be extended to noncarbonated beverages and beverage bases.

The Commissioner concludes that such an extension of the proposed use of glycine is fully supported by the available data, and accordingly § 121.1257 of the food additive regulations being promulgated by this order permits such use. The Commissioner advises that the term "beverage base" as used in the regulation includes powders, tablets, etc., as well as liquid bases.

3. One comment took the position that glycine is generally recognized as safe when used in small amounts for technological purposes in food and proposed that either the GRAS list (21 CFR 121.101) or proposed § 121.4002 be revised to include a provision for the use of glycine as an "agent" for "technological purposes" whereby no more than 0.8 gram is contributed to the average daily dietary intake of glycine. The rationale offered in support of the 0.8 gram limitation was based upon a judgment that glycine added to food for technological purposes at levels up to 20 percent of the normal daily dietary intake of glycine, asserted to be 4 grams, is safe. As an alternative, the comment requested that proposed § 121.4002 be revised to permit use of glycine as an "agent" in hydrolyzed vegetable protein-based flavoring and seasoning adjuvants at a level "not to exceed 0.5 percent of the flavoring and seasoning adjuvants as added glycine."

The suggested use of glycine for "technological purposes" at unspecified levels in any food whereby the added glycine in all such foods would contribute no more than 0.8 gram to the daily diet is not feasible. No individual manufacturer wishing to use glycine for such purposes would know how much glycine was being contributed to the "daily diet" by other manufacturers using glycine for such purposes, and such usage by many manufacturers could easily result in a total dietary intake of glycine at levels not known to be safe.

As discussed below in item 4, the Commissioner has concluded, based on the data now before him, that the routine daily intake of glycine added to food for technological purposes should not exceed 12 grams. However, even using this figure of 12 grams, rather than the figure of 0.8 gram suggested in the comment, there would still be no effective means of en-

suring that cumulative use as an "agent" for "technological purposes" would not in fact result in a routine daily dietary contribution exceeding 12 grams.

There is also no basis for approving the proposed use of glycine at levels not to exceed 0.5 percent as an "agent" in hydrolyzed vegetable protein-based flavoring and seasoning adjuvants. For example, no data were submitted to explain the function or effect to be accomplished by adding glycine to such flavoring and seasoning adjuvants, or to demonstrate that the proposed level of use is needed to accomplish the intended function or effect; nor were any data offered concerning the probable level of consumption in the daily diet which would result from such use. If appropriate data can be offered, the Commissioner advises that a petition to amend § 121.1257 to provide for such use should be filed. (The requirements for such petitions are set forth in § 121.51.)

4. One comment proposed that glycine be permitted "as a masking agent for the bitter aftertaste of saccharin in sugar substitutes." However, no supporting data were submitted in the comment as a basis for considering the proposed use.

In the absence of supporting data, no regulation could be issued to permit such an additional use of glycine.

In this regard, the Commissioner advises that table use of individual serving packets of sugar substitute formulated in the ratio of 380 milligrams of glycine to 20 milligrams of saccharin for each expressed teaspoonful of sugar sweetening equivalent was evaluated in a food additive petition (FAP 1A2612), whose notice of filing was published in the FEDERAL REGISTER of December 16, 1970 (35 FR 19035). On the basis of reports in scientific literature presented in the petition, it was concluded that 12 grams of glycine added daily to the human diet in excess of that contributed by protein-containing foods and otherwise associated with the nutritional value of foods, is safe. It was estimated, however, that glycine introduced into the daily diet through table use of the described packets of sugar substitute could approach a maximum of about 18 grams per day, far in excess of the acceptable safe limit.

Accordingly, the Commissioner has concluded that no action can be taken at this time to authorize the use of glycine in sugar substitutes for table use. It is possible that the intended technical effect may be accomplished with a lower level of glycine in combination with certain other adjuvant substances. However, it would be necessary to establish safe conditions of use in a food additive petition. Accordingly, the petitioner submitting FAP 1A2612 has been told that the petition will be denied unless it is amended or withdrawn.

The Commissioner reminds all persons that, as set forth in § 121.12, glycine which is added to food for technological purposes is a "food additive" as defined by section 201(s) of the act; therefore, food containing added glycine or its salts is adulterated within the meaning of section 402(a)(2)(C) of the act unless its use or intended use is in conformity with an effective food additive regulation prescribing safe conditions of use.

The Commissioner, having evaluated data in petitions submitted pursuant to § 121.12, comments responding to the proposed provisional regulation § 121.4002, and other relevant material, concludes that a food additive regulation should be established to provide for the safe use of glycine for technological purposes in food, as set forth below, thereby limiting such added glycine in the human diet to an amount which has been shown to be within the acceptable safe level of 12 grams per day.

As discussed above in this preamble, a notice of termination of the proposed rule making concerning the proposed "provisional" regulation for glycine (21 CFR 121.4002) appears elsewhere in this issue of the FEDERAL REGISTER. Any further request(s) for permission to use glycine on a temporary basis for a particular use, pending a decision on the issuance of a food additive regulation for that use, should be submitted as a petition for an interim food additive regulation, as provided in 21 CFR 121.4000. (Section 121.4000 was not in effect when a "provisional" food additive regulation for certain uses of glycine (21 CFR 121.4002) was proposed.)

The safety of glycine as a masking agent for the bitter after-taste of saccharin used in manufactured beverages and beverage bases containing a maximum of 0.2 percent glycine in the finished beverage is based on an assumed total daily dietary intake of 1.5 liters of liquids (about 50 fluid ounces or 6 eight-ounce cups) consisting wholly of artificially sweetened beverages containing 0.2 percent glycine, which equates to about 3 grams of glycine per day contributed from this source. Data relating to consumption of foods containing mono- and diglycerides stabilized with a maximum of 0.02 percent glycine indicate that the amount of glycine in the daily diet from this source would not exceed 0.007 gram.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409, 72 Stat. 1785–1788; 21 U.S.C. 348) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding § 121.1257 to Subpart D as follows:

§ 121.1257 Glycine.

The food additive glycine may be safely used for technological purposes in food in accordance with the following prescribed conditions:

(a) The additive complies with the specifications prescribed in *"Food Chemicals Codex,"* National Academy of Sciences/National Research Council (NAS/NRC) 2d edition (1972).[1]

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037

(b) The additive is used or intended for use as follows:

Uses	*Limitations*
As a masking agent for the bitter aftertaste of saccharin used in manufactured beverages and beverage bases.	Not to exceed 0.2 percent in the finished beverage.
As a stabilizer in mono- and digylcerides prepared by the glycerolysis of edible fats or oils.	Not to exceed 0.02 percent of the mono- and diglycerides.

(c) To assure safe use of the additive, in addition to the other information required by the act:

(1) The labeling of the additive shall bear adequate directions for use of the additive in compliance with the provisions of this section.

(2) The labeling of beverage bases containing the additive shall bear adequate directions for use to provide that beverages prepared therefrom shall contain no more than 0.2 percent glycine.

Any person who will be adversely affected by the foregoing order may at any time on or before August 12, 1974 file with the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective July 11, 1974.

(Sec. 409, 72 Stat. 1785–1788; (21 U.S.C. 348.))

Dated: July 2, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–15848 Filed 7–10–74;8:45 am]

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Oxytocin Injection, Veterinary

The Commissioner of Food and Drugs has evaluated a new animal drug application (44–585V) filed by Glogau & Co., Inc., Melrose Park, IL 60160, proposing the safe and effective use of oxytocin injection, veterinary for the treatment of horses, cows, sows, ewes, dogs, and cats. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended in § 135b.64 by revising paragraph (b) to read as follows:

§ 135b.64 Oxytocin injection, veterinary.

* * * * *

(b) *Sponsor.* See Code Nos. 075, 080, 095 and 097 in § 135.501(c) of this chapter.

* * * * *

Effective date. This order shall be effective July 11, 1974.

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

Dated: July 2, 1974.

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

[FR Doc.74-15850 Filed 7-10-74;8:45 am]

PART 146e—CERTIFICATION OF BACITRACIN AND BACITRACIN-CONTAINING DRUGS FOR VETERINARY USE

Feed Grade Bacitracin, Feed Grade Zinc Bacitracin

In the FEDERAL REGISTER of May 9, 1973 (38 FR 12129), the Commissioner of Food and Drugs proposed an amendment of § 146e.427 (21 CFR 146e.427) of the antibiotic certification regulations in response to a request submitted by Commercial Solvents Corp., Terre Haute, IN 47808.

The section as amended provides for the designation of the drug potency in terms of grams of activity per pound, additional flexibility in the establishment of an expiration date, removal of the tests for toxicity, pH, and ash content from certification of the antibiotic used in making the batch and a revised sampling schedule for assay of the batch. It has been concluded that the revisions will not alter the safety and effectiveness of the drug. The revised certification monograph reflects the specifications and tests and methods of assay for feed grade bacitracin and feed grade zinc bacitracin currently certified.

One comment was received in response to the proposal. The respondent requested that the certification requirements for soluble bacitracin methylene disalicylate included in § 146e.423 be accorded the same revisions.

The Commissioner has evaluated the request and concludes that § 146e.423 properly reflects the specifications and tests and methods of assay for soluble bacitracin methylene disalicylate as it is currently being certified. A corresponding amendment for this antibiotic product would require the submission for approval of a supplemental new animal drug application establishing its safety and efficacy under the revised specifications.

The Commissioner concludes that the request pertaining to soluble bacitracin methylene disalicylate should be denied. The Commissioner further concludes that the proposal should be adopted as published with a minor change being made in § 146e.427(c)(3)(ii) concerning the sample requirements for the bulk antibiotic used to produce a batch.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(n)(5), 82 Stat. 351; 21 U.S.C. 360b(n)(5)) and under authority delegated to the Commissioner (21 CFR 2.120), § 146e.427 is amended by revising paragraph (b) and by adding a new paragraph (c) as follows:

§ 146e.427 Feed grade bacitracin powder oral veterinary (crude bacitracin powder oral veterinary, unrefined bacitracin powder oral veterinary); feed grade zinc bacitracin powder oral veterinary (crude zinc bacitracin powder oral veterinary, unrefined zinc bacitracin powder oral veterinary).

* * * * *

(b) *Labeling.*—Each package shall bear on its label or labeling, as hereinafter indicated, the following:

(1) On the outside wrapper or container and the immediate container:

(i) The batch mark.

(ii) The number of grams of bacitracin activity per pound, and the weight of the drug in the immediate container.

(iii) The statement "Expiration date ----------", the blank being filled in with the date that is 18 months after the month during which the batch was certified, except that an expiration date of 24 months or 36 months may be used if the manufacturer has submitted to the Commissioner results of tests and assays showing that, after having been stored for such period of time, such drug as prepared by him complies with the standards prescribed by paragraph (a) of this section.

(iv) The statement "For oral veterinary use only".

(v) If it is intended for use in animals raised for food production, it shall be labeled in accordance with the requirements of regulations in parts 121 and/or 135c of this chapter.

(2) On the circular or other labeling within or attached to the package, adequate directions and warnings for the veterinary use of such drug by the laity.

(c) *Request for certification; samples.* (1) In addition to complying with the requirements of § 146.2 of this chapter, a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark and (unless it was previously submitted) the date on which the latest assay of the bacitracin used in making such batch was completed, the quantity of each ingredient used in making the batch, the date on which the latest assay of the drug comprising such batch was completed, and a statement that each other ingredient used conforms to the requirements prescribed therefor, by this section.

(2) Except as otherwise provided by paragraph (c)(4) of this section, such person shall submit in connection with his request results of the tests and assays listed after each of the following, made by him on an accurately representative sample of:

(i) The batch. Grams of bacitracin per pound and moisture.

(ii) The bacitracin used in making the batch: Potency, moisture, and zinc content, if the bacitracin used is zinc bacitracin.

(3) Except as otherwise provided by paragraph (c)(4) of this section, such person shall submit in connection with his request, in the quantities hereinafter indicated, accurately representative samples of the following:

(i) The batch: 1 immediate container for each 5,000 immediate containers in the batch, but in no case less than 6 immediate containers, unless each such container is packaged to contain more than 30 grams, in which case the sample shall consist of 30 grams of each 5,000 immediate containers in the batch, but in no case less than six 30-gram portions or more than twelve 30-gram portions. Such samples shall be collected by taking single immediate containers or 30-gram portions at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(ii) The bacitracin used in making the batch: Three packages consisting of a composite of 6 portions of approximately 500 milligrams each taken at random from different locations in the batch, packaged in accordance with the requirements of § 148.2 of this chapter.

(iii) In case of an initial request for certification, each other substance used in making the batch: 1 package of each containing approximately 5 grams.

(4) No result referred to in paragraph (c)(2)(ii) of this section, and no sample referred to in paragraph (c)(3)(ii) of this section, is required if such result or sample has been previously submitted.

Any person who will be adversely affected by the foregoing order may at any time on or before August 12, 1974 file with the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective August 12, 1974.

(Sec. 512(n)(5), 82 Stat. 351; (21 U.S.C. 360b(n)(5)))

Dated: July 3, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-15851 Filed 7-10-74;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 571-74]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart H—Antitrust Division

ASSISTANT ATTORNEY GENERAL; AUTHORITY TO DESIGNATE ATTORNEYS TO PRESENT EVIDENCE TO GRAND JURIES

Existing regulations authorize the Assistant Attorney General in charge of the Antitrust Division to designate attorneys to present evidence to grand juries in cases where the antitrust laws or other laws relating to the protection of competition and the prohibition of restraints of trade and monopolization are involved (28 CFR 0.40(a)). This order delegates such authority with respect to all types of cases handled by the Antitrust Division, including those arising under the Federal Food, Drug, and Cosmetic Act, the Consumer Credit Protection Act, and other laws relating to consumer affairs. (See 28 CFR 0.41(h)).

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Subpart H of Part O of 28 CFR Chapter I, is amended by adding the following new section 0.43 at the end thereof:

§ 0.43 Designation of attorneys to present evidence to grand juries.

The Assistant Attorney General in charge of the Antitrust Division is authorized to designate attorneys to present evidence to grand juries in all cases assigned to, conducted, handled, or supervised by the Assistant Attorney General in charge of the Antitrust Division.

Dated: July 2, 1974.

L. N. SILBERN,
Acting Attorney General.

[FR Doc.74-15842 Filed 7-10-74;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Chlorpyrifos

A petition (PP 3F1306) was filed by Dow Chemical U.S.A., Post Office Box 1706, Midland, MI 48640, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for combined residues of the insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) and its metabolite 3,5,6-trichloro-2-pyridinol in or on fat and (on fat basis) the meat and meat byproducts of cattle at 1 part per million; the meat, fat, and meat byproducts of turkeys at 0.2 part per million; field corn fodder, forage, and grain and peaches at 0.05 part per million (negligible residue).

Subsequently, the petitioner amended the petition by increasing the proposed tolerance for residues in fat and (on fat basis) the meat and meat byproducts of cattle to 1.5 parts per million from 1 part per million and by changing the proposed tolerance for residues in or on field corn fodder, forage, and grain from 0.05 part per million (negligible residue) to 0.1 part per million (negligible residue).

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The insecticide is useful for the purpose for which the tolerances are being established.

2. There is no reasonable expectation of residues in eggs or milk and § 180.6(a)(3) applies. The proposed tolerances are adequate to cover residues in meat, fat, and meat byproducts of cattle and poultry and § 180.6(a)(1) applies.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805), § 180.342 is revised to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

Tolerances are established for combined residues of the insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl)) phosphorothioate and its metabolite 3,5,6-trichloro-2-pyridinol in or on raw agricultural commodities as follows:

1.5 parts per million in the meat, fat, and meat byproducts of cattle.

0.25 part per million in or on bananas of which not more than 0.05 part per million (negligible residue) shall be present in the pulp after the peel is removed and discarded.

0.2 part per million in the meat, fat, and meat byproducts of turkeys.

0.1 part per million (negligible residue) in or on field corn (grain, forage, and fodder).

0.05 part per million (negligible residue) in or on peaches.

Any person who will be adversely affected by the foregoing order may at any time on or before August 12, 1974 file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on July 11, 1974.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: July 5, 1974.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-15783 Filed 7-10-74;8:45 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O,O-Diethyl O-(2-Isopropyl-4-Methyl-6-Pyrimidinyl) Phosphorothioate

A petition (PP 4F1516) was filed by CIBA-GEIGY Corp., Post Office Box 11422, Greensboro, NC 27409, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of a tolerance for residues of the insecticide *O,O*-diethyl *O*-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate in or on the raw agricultural commodity coffee beans at 0.2 part per million.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The insecticide is useful for the purpose for which the tolerance is being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2)), 68 Stat. 512; 21 U.S.C. 346a(d)(2) the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805), § 180.153 is amended by revising the paragraph "0.2 part per million * * *", to read as follows:

§ 180.153 *O,O*-Diethyl *O*-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate; tolerances for residues.

* * * * *

0.2 part per million in or on bananas (of which not more than 0.1 part per million shall be present in the pulp after peel is removed), coffee beans, and cottonseed.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before August 12, 1974 file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on July 11, 1974.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: July 5, 1974.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-15782 Filed 7-10-74;8:45 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Interim Tolerances; Sodium Arsenite; Correction

In FR Doc. 74-14204 appearing at page 22146 in the issue of Thursday, June 20, 1974, the first two lines are changed to read "In the FEDERAL REGISTER of August 30, 1972 (37 FR 17554) and December 2, 1972 (37 FR 25716), interim tolerances * * *", and the interim tolerance for residues of sodium arsenite in or on grapes at 0.05 part per million is reinstated as follows:

§ 180.319 Interim tolerances.

* * * * *

Substance	Use	Tolerance in parts per million	Raw agricultural commodity
*	*	*	*
Sodium arsenite.	Fungicide, Insecticide.	[1] 0.05	Grapes.
*	*	*	*

[1] Calculated as As_2O_3.

Dated: July 5, 1974.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-15781 Filed 7-10-74;8:45 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Binapacryl

In response to a notice published by the Environmental Protection Agency in the FEDERAL REGISTER of May 10, 1974 (39 FR 16905), proposing that § 180.319 *Interim tolerances* be amended by deleting the item "Binapacryl (2-*sec*-butyl-4,6-dinitrophenyl-3-methyl-2-butenoate) * * *" from the list of items in the table, no comments or requests for referral to an advisory committee were received.

It is concluded that binapacryl should be deleted from § 180.3 *Tolerances for related pesticide chemicals* as well as from § 180.319. (For a related document, see this issue of the FEDERAL REGISTER, page 25540.)

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805), Part 180 is amended as follows:

§ 180.3 [Amended]

1. In § 180.3 *Tolerances for related pesticide chemicals*, by deleting the item "Binapacryl * * *" from the list of items in subparagraph (e)(6).

§ 180.319 [Amended]

2. In § 180.319 *Interim tolerances*, by deleting the item "Binapacryl (2-*sec*-butyl-4,6-dinitrophenyl - 3-methyl - 2-butenoate) * * *" from the list of items in the table.

Any person who will be adversely affected by the foregoing order may at any time on or before August 12, 1974 file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective July 11, 1974.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: July 5, 1974.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 74-15860 Filed 6-10-74;8:45 am]

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

PART 420—IRON AND STEEL MANUFACTURING POINT SOURCE CATEGORY

Correction

In FR Doc. 74-14433 appearing at page 24114 in the issue for Friday, June 28, 1974, the effective date on page 24119 in the paragraph designated (g) which presently reads "July 28, 1974" should read "June 28, 1974".

Title 41—Public Contracts and Property Management

CHAPTER 7—AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE

[AIDPR Notice 74-2]

PART 7-7—CONTRACT CLAUSES

Subpart 7-7.55—Clauses for Cost Reimbursement Contracts With Educational Institutions

COMPENSATION OF UNIVERSITY CONTRACTS REVISION OF CERTAIN AID PROCUREMENT REGULATIONS

This notice incorporates various provisions affecting compensation of university contractor personnel, as approved by the Deputy Administrator of AID on June 7, 1974. The comments of the university community were solicited and considered in preparing the amended contract clauses covering personnel compensation, vacation leave, and the overseas recruitment incentive.

1. § 7-7.5501-5 is revised to read as follows:

§ 7-7.5501-5 Personnel compensation.

PERSONNEL COMPENSATION (JULY 1974)

Direct compensation of personnel will be reimbursable in accordance with the Contractor's established policies, procedures and practices except as otherwise provided in paragraphs (a) through (d) of this section, and the General Provisions clause entitled "Allowable Cost and Payment". Such Contractor policies, procedures and practices shall be the same as used in contracts and grants with other Government agencies and accepted by the cognizant U.S. Government agency assigned primary audit responsibility for the Contractor, shall be in writing and shall be made available to the Contracting Officer, or his designated representative, upon request:

(a) *Compensation.* (1) Compensation (i.e., the employee's base annual salary plus overseas recruitment incentive, if any) which exceeds the maximum level of the Foreign Service Class I (FSR-1) (or the equivalent daily rate) as set forth in the payment schedule of the Uniform State/AID/USIA Regulations, as from time to time amended, will be reimbursed only with the approval of the Contracting Officer.

(2) The employee's base annual salary under this Contract includes annual or annualized salary plus related professional income, calculated in accordance with the following:

(i) If the employee is already working under a 12 month appointment, this is his annual salary to which related professional income is added.

(ii) If the employee is working under an academic year appointment (e.g., 9 or 10 months), his salary is annualized in accordance with the following:

(*a*) The policy and practice established by the Contractor for his on-campus employees, as accepted by the cognizant U.S. Government agency assigned primary audit responsibility for the contract, to which is added other related income from professional employment, excluding business or other activities not connected with the employee's profession, which was earned during the preceding academic year; or

(*b*) The addition to his academic year salary of related professional income earned during the preceding year.

(b) *Compensation during travel.* Compensation paid while in travel status will not be reimbursed for a travel period greater than the time required for travel by the most direct and expeditious air route except as otherwise provided under the General Provisions clause entitled "Travel Expenses".

(c) *Consultants.* Unless approved by the Contracting Officer or authorized in the Schedule of the contract, no compensation for consultants will be reimbursed.

(d) *Work week.* The work week for Contractor employees working in the U.S. shall not be less than the established on-campus practice of the Contractor.

2. § 7–7.5502–4 is amended to change the date in the title from "June 1973" to "July 1974", and to substitute the following for paragraph (a).

§ 7–7.5502–4 Personnel compensation.

PERSONNEL COMPENSATION (JULY 1974)

(a) *Overseas recruitment incentive.* (1) Short term employees and regular employees serving overseas less than 18 months may receive an overseas recruitment incentive, provided that the average incentive for all such employees does not exceed 10 percent of the base annual salary of all employees eligible for the incentive.

(2) An overseas recruitment incentive is reimbursable only if the incentive amount is shown by the Contractor at the time the employee is nominated. The incentive is a fixed dollar amount which remains constant throughout the employee's appointment under the Contract.

(3) If this overseas recruitment incentive causes the employee's salary to exceed the FSR–1 level, contracting officer approval must be obtained.

(4) The overseas recruitment incentive is payable only as a lump-sum amount after the employee has completed his tour of duty in the cooperating country under this Contract. Employees serving overseas eighteen months or more may not receive any recruitment incentive.

* * * * *

3. § 7–7.5502–6 is amended to change the date in the title from "June 1973" to "July 1974" and to substitute the following for paragraph (a).

§ 7–7.5502–6 Leave and holidays.

LEAVE AND HOLIDAYS (JULY 1974)

(a) *Vacation leave overseas.* (1) The Contractor may grant to his employees working overseas under this Contract, vacations of reasonable duration in accordance with the Contractor's on-campus practice for his employees, but in no event shall such vacation leave be earned at a rate exceeding twenty-six (26) work days per annum. Vacation leave is provided under this Contract primarily for purposes of affording necessary rest and recreation to regular employees during their tour of duty in the Cooperating Country. The Contractor's Chief of Party, the employee and the Cooperating Country institution associated with this project shall develop vacation leave schedules early in the employee's tour of duty taking into consideration project requirements, employee preference, and other factors.

(2) Leave taken during the concluding weeks of an employee's tour shall be included in the established leave schedule and be limited to that amount of leave which can be earned during a twelve month period unless approved in accordance with paragraph (a)(3) of this section.

(3) Vacation leave earned but not taken by the end of the employee's tour pursuant to paragraphs (a) (1) and (2) of this section will be forfeited, unless the requirements of the project precluded the employee from taking such leave and the Contracting Officer, with the endorsement of the Mission, approves one of the following as an alternative:

(i) Taking, during the concluding weeks of the employee's tour, leave not permitted under paragraph (a)(2) of this section, or

(ii) Lump-sum payment for leave not taken provided such leave does not exceed the number of days which can be earned by the employee during a twelve month period.

Effective date. This AIDPR notice is effective on July 1, 1974. However, it may be observed earlier. Procuring activities are to incorporate the clauses set forth above in each new contract with an educational institution. For existing contracts with educational institutions, the clauses above are to be incorporated into the first amendment or modification executed after July 1, 1974 (except amendment solely for the purpose of incorporating indirect cost rates). Any exceptions are to be treated as deviations as set forth in AIDPR 7–1.107.

Filing. This notice should be filed in front of the main text of the Agency for International Development Procurement Regulations.

Date: June 27, 1974.

WILLARD H. MEINECKE,
Acting Assistant Administrator for Program and Management Services.

[FR Doc.74–15844 Filed 7–10–74;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 220—SERVICE PROGRAMS FOR FAMILIES AND CHILDREN

Paternity and Support

Notice of proposed rule making published in the FEDERAL REGISTER on October 4, 1973 (38 FR 27530) would have established a new section 45 CFR 235.75, related to establishing paternity of children born out of wedlock and securing support for such children and for others who have been abandoned or deserted and are receiving AFDC. The major proposed changes were to classify paternity and support activities as income maintenance rather than service functions (with Federal sharing at 50 percent rather than 75 percent); to require release of case records to law enforcement officials; and to broaden the scope of law enforcement officials' activities that could be reimbursed with Federal sharing.

Sixteen comments were received. Seven State welfare agencies, 2 city governments, and 1 individual were strongly supportive of the proposal. Objections from 4 organizations were based primarily on lack of knowledge of the results of previous enforcement programs and misreading of the proposal. Two welfare agencies and two organizations objected to release of the case record to law enforcement officials. However, such officials can best judge what information is necessary for their purpose. State welfare agencies suggested more flexibility in administration and two individuals suggested alternatives. The alternatives were either impractical or inconsistent with the law, and the regulations would permit considerable administrative flexibility.

The form of the proposal was based on the fact that 45 CFR Part 221, which superseded 45 CFR Part 220 on November 1, 1973, contained no provisions regarding paternity and support activities. Now that 45 CFR Part 220 is once again in effect, because of enactment of section 12 of Public Law 93–233, the proposal has been modified to fit into the provisions of Part 220. Therefore, the reclassification of certain activities to be reimbursed at the 50 percent rate has been eliminated, because the provisions of section 12 of that law forbid changes before January 1, 1975, in regulations relating to section 403(a)(3)(A) of the Social Security Act (which establishes the 75 percent matching rate for certain services).

Accordingly, Part 220 of 45 CFR, Chapter II is amended as follows:

Section 220.48 is revised to read as set forth below:

§ 220.48 Establishing paternity and securing support for children receiving Aid to Families with Dependent Children.

(a) There must be a program, with respect to children receiving AFDC, under which the agency will undertake:

(1) To establish the paternity of, and secure support for, a child born out of wedlock; and

(2) To secure support for a child deserted or abandoned by his parent, from such parent or any other legally liable person, using reciprocal arrangements with other States to obtain or enforce court orders for support.

(b) There must be a single organizational unit in the State agency and in large local agencies to administer the program referred to in paragraph (a) of this section.

(c) There must be cooperative arrangements, with appropriate courts and law-enforcement officials, including a written agreement:

(1) To assist the agency in carrying out the program, and with respect to any other matters of common concern;

(2) To reimburse courts and law-enforcement officials for such assistance;

(3) To provide courts and law-enforcement officials with pertinent information needed in locating putative or deserting fathers, establishing paternity and securing support; and

(4) To provide immediate referral of case records when requested by law-enforcement officials.

(d) Law-enforcement officials shall have access to case records. However, as a condition for release of information from the case records, there must be a written agreement between the agency and such officials that the information will be used only in promotion or support of the administration of the AFDC program, including the detection and prosecution of welfare fraud, the location of putative or deserting parents, and the establishment of paternity and securing support. There must be a determination by the head of the single State agency that the information contained in case records is required by the law-enforcement officials in the performance of their duties as described above. A law-enforcement official who disagrees with the determination may appeal to the Governor who shall inform such official and the State agency of his decision.

(e) The agency must cooperate with the State welfare agencies responsible for the AFDC program in other States, in locating the parent of an AFDC child against who a support petition has been filed in another State, and in attempting to secure the parent's compliance with a court order for support, when such parent is now residing in the agency's own State.

(f) There must be use of the clearance procedures established with the Internal Revenue Service to secure the address of parents of AFDC children whose location is unknown and who are failing to comply with existing court orders for support payments or against whom petitions for orders of support have been filed.

(g) The State agency shall submit monthly statistical reports of paternity and child support activities in the form and containing the information prescribed by the Secretary.

Section 220.61 is amended by revising paragraph (f)(1)(i) and (4)(v), (vi) and (vii) and by adding subparagraph (5) as follows:

§ 220.61 Federal financial participation; AFDC.

* * * * *

(f) *Rates of Federal financial participation.* (1) (i) Federal financial participation at the 75 percent rate is available for the service costs identified in paragraphs (d) and (e) of this section; and for training and staff development including costs of training provided to welfare staff by courts or law enforcement officials.

* * * * *

(4) * * *

(v) Subject to paragraph (f)(5) of this section, cost, both direct and indirect, of reimbursing courts and law-enforcement officials under plans of cooperation approved by the single State agency for their assistance to the State or local agency in respect to its program to secure support and establish paternity, including costs of training provided to court and law-enforcement officials.

(vi) Costs of Emergency services to needy families with children.

(vii) Other expenses of administration not specified at the 75 percent rate for services.

(5) The ordinary administrative costs of the judiciary system are not subject to reimbursement.

* * * * *

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

Effective date: April 1, 1974.

(Catalog of Federal Domestic Assistance Nos. 13.724, Public Assistance—State and Local Training; 13.754, Public Assistance—Social Services and 13.761, Public Assistance—Maintenance Assistance (State Aid))

Dated: March 22, 1974.

JAMES S. DWIGHT, Jr.,
Administrator, Social and Rehabilitation Service.

Approved: July 1, 1974.

CASPAR W. WEINBERGER,
Secretary.

[FR Doc.74-15925 Filed 7-10-74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18920; FCC 74-657]

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

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

Point-to-Point Microwave Radio Service Applications; Policies and Procedures

In the matter of establishment of policies and procedures for consideration of applications to provide specialized common carrier services in the domestic point-to-point microwave radio service and proposed amendments of Parts 2 and 21 of the Commission's rules Docket No. 18920 (RM-1700; 2024) (37 FR 26128).

1. On December 4, 1972 the Commission released a further notice of proposed rulemaking in this proceeding (38 FCC 2d 385) concerning local distribution (Issue E), including specific proposals for the allocation and use of various microwave radio bands. The proposed rules dealt with the use of the lower common carrier bands (i.e. 2 GHz through 11 GHz) and including petitions for use of the bands 10.7–11.7 GHz (RM-2024) and 38.6–40 GHz (RM-1700) for local distribution.

2. Comments were filed by 22 parties: 12 common carriers—Microband Corporation of America, Southern Pacific Communications Corporation, GTE Service Corporation, CML Satellite Corporation, Western Union Telegraph Company, Data Transmission Company (Datran), American Telephone and Telegraph Company (AT&T), United Video, Inc., and associated companies, Western Telecommunications Inc. (WTCI), Nebraska Consolidated Communications Corporation (NCCC), Communications Satellite Corp. (Comsat), and Microwave Communications, Inc. (MCI); 4 equipment manufacturers—Norden Division of United Aircraft Corporation (Norden), Vicom Division of Vidar Corporation (Vicom), Avantek, Inc., and Varian Division of Micro-link Products (Varian); 5 trade associations—Electronics Industries Association (EIA), United States Independent Telephone Association (USITA), Utilities Telecommunications Council (UTC), American Petroluem Institute (API), and Multipoint Microwave Common Carriers Association (MMCCA); and one private radio user—Aeronautical Radio, Inc. (Arinc). Reply comments were filed by GTE, CML Satellite, Datran, AT&T, NCCC, Comsat, MCI, UTC and API.

3. The comments generally supported the proposed rules especially those allocating the higher frequency bands (i.e. 18 GHz and above) for use. However, there were numerous differences of opinion as to various details. Drawing the most comments were the 18 GHz frequency plan, the path distance and loading criteria for the lower band frequencies, and frequency tolerance changes. In the following paragraphs the comments will be summarized in connection with our discussion of each subject matter.

DISTANCE AND LOADING GUIDELINES

4. In the notice we concluded that it was difficult as a practical matter, to distinguish between frequency usage for "intercity" and "local distribution" usage. Therefore, we proposed guidelines for use of lower band frequencies (i.e. in the 2 GHz, 4 GHz, 6 GHz and 11 GHz common carrier bands) which would involve the use of various minimum distance and loading criteria for each band. The majority of the comments supported this approach although a number urged more flexibility or exceptions. Some of

the circumstances that were cited that should warrant exceptions to the minimum path distance requirements were: demands of the terrain, precipitation characteristics of the area and remote geographical area with limited growth potential. With respect to the channel loading guidelines, several suggested a liberal policy of waivers in the 6 GHz band where frequency congestion is no problem. Some suggested that the minimums be reduced (e.g. to 600 voice channels at 4 and 6 GHz and 240 at 11 GHz), while others urged use of a longer traffic projection period. AT&T suggested that the rules provide exceptions for the use of special narrowband auxiliary channels in the 4 and 6 GHz bands which are used for order circuits, alarm transmission and protection switching control.

5. Many of these comments raise valid points. Therefore, we are making several changes in the rules as proposed. We believe the minimum path distance criteria as set forth is reasonable, but we recognize that perhaps a greater degree of flexibility in its application may be warranted. Therefore, we will permit some additional exceptions in individual cases where it can be shown that the proposed frequency usage is consistent with good engineering practices but specific explanation of the practical problems that would be encountered by adhering to the path distance guidelines will be required.[1] However, we wish to emphasize that it is our intention that the guidelines be followed in the vast majority of situations.

6. With regard to the minimum loading guidelines, the rules have been modified to: (a) permit a longer projection period than five years where there is a reasonable basis to use such a period; (b) allow use of the narrow band auxiliary channels which are included in the existing channel plans for the 4 and 6 GHz bands; and (c) reduce the minimum channel loading for the 11 GHz band from 250 to 240 voice channels.[2] Also, we wish to clarify the following points. First, these loading guidelines are not intended to be synonymous with full channel occupancy. Before a second channel is authorized over the same path, the applicant must show that the first channel equipment has reached, or will shortly reach, its reasonable maximum capacity. Secondly, we have used the term "4 KHz channel" to define a standard voice grade channel. However, in recognition of the increasing interest in transmission of voice by digital techniques, we will now primarily refer to such channels as voice channels so as to not confuse them with digital transmission capacity (expressed in bits per second) which is intended to apply to data traffic. Our intention, in any event, is that the loading guidelines for voice circuits (regardless of whether derived by analog or digital means) are separate from the guidelines for digital data circuits. Thirdly, there appears to be some misconception about our policy regarding the 2 GHz band inasmuch as the notice referred to this band as appropriate for less than 250 circuits. We did not intend that this (or any other) figure be considered as the maximum permissible loading. Our policy has been, and will continue to be, to encourage the development of greater equipment capacity in all frequency bands, limited only by bandwidth and other restrictions necessary to avoid interference to adjacent channels.

The 11 GHz Band

7. In the notice we specifically solicited comments on a more efficient use of the 11 GHz band (10,700–11,700 MHz). We discussed two primary alternatives, both based on 40 MHz channel spacing now in common practice. One involved the use of a full 40 MHz channel or a 20 MHz "half channel". The other was MCI's proposal (RM–2024) for a 30 MHz and 10 MHz channel mix, the 30 MHz channels being used for high capacity intercity routes and the 10 MHz channels for local distribution. The MCI proposal drew little support. The primary difficulty cited was the potential for frequency conflict with the alternate (or offset) 11 GHz frequency plan[3] which is used primary to avoid interference on intersecting routes. Most of the comments favored the 40 MHz plan because of its greater potential capacity and the added flexibility the 20 MHz channel would offer for lower density routes.

8. After considering this matter, we have decided to reject the MCI proposal because of the interference potential with the offset frequency plan. On the other hand, we believe the 40 MHz–20 MHz usage will significantly improve the efficiency in use of the band. The 20 MHz "half channel" will be consistent with present frequency plans and will provide users with a channel more efficiently tailored for medium capacity routes. However, the 40–20 plan will be efficient only if equipment manufacturers design equipment to effectively utilize 20 MHz or 40 MHz rather than equipment which is now routinely accepted for about a 30 MHz bandwidth. However, we believe that rules to accomplish such an objective should be adopted only after prior notice. This we intend to do in a separate proceeding which we hope to initiate in the near future. In the meantime we urge manufacturers to design new equipment to effectively use all, or nearly all, of a 20 MHz or 40 MHz channel.

The 18 GHz–22 GHz Bands

9. With respect to the 18 GHz band (17,700–19,700 MHz), we proposed eight two way channels, each 220 MHz wide, for wide band use and a segment 240 MHz wide for narrow band use with possible expansion into one adjacent wide band channel (channel 8). Also, the notice referred to a tentative proposal reached in the notice of proposed rulemaking in Docket No. 19547 (37 FR 15714) to restrict use of the 18 GHz to common carriers. However, we indicated that comments on that question would be accepted in this proceeding. The proceeding in Docket No. 19547 was subsequently finalized but a final decision on use of the 18 GHz band was deferred for this proceeding (see 39 FCC 2d 959 at 966). As to the 22 GHz band (21.2–23.6 GHz), we proposed its use for narrow band systems (i.e. 100 MHz or less) and shared between carriers, private users and the Government. We also raised the question of whether there should be a channel plan for the 22 GHz band and the narrow band portions on the 18 GHz band.

10. Most of the comments recognized the need for both wide and narrow band communications in the 18 GHz band. However, several took more extreme positions. For example, Datran, urged that the band be divided into 20 40 MHz wide channels plus a 5 MHz guard on either side, a plan obviously designed for all narrow band use. On the other hand, AT&T urged that all narrow band users be excluded unless it can be shown that there is no room in the 22 GHz band. Several comments took the position that it is too early to develop a definitive frequency plan or that a plan should be developed by an industry committee. However, most of the comments appeared to generally support the frequency plan proposed, but many recommended various modifications too numerous to mention individually. The most common recommendation was that more spectrum be allocated for narrow band users. With respect to private use of the band, the response was predictable; carriers opposed such use, while the private user groups supported sharing or a separate allocation for private use within the band. Several of the carriers and private users indicated that sharing may be difficult because of dissimilar technical standards and requirements in the two services. Comment on the 22 GHz band was much more limited. Datran did not consider the band a viable alternative to the 18 GHz band, but it did suggest a plan be developed similar to its proposal for 18 GHz. On the other hand, Southern Pacific saw 22 GHz as a major band for local distribution and urged development of a channel plan similar to that proposed for the 3º GHz band. MCI suggested 21.2 to 22.8 GHz be allocated for common carrier, on a half band basis with unstructured bandwidths, and 22.8 to 23.6 GHz for private users.

11. In considering the future of the 18 GHz band we reject those suggestions of splitting off various segments for this service or that service. We have attempted to develop the 18 GHz and other higher band frequencies in a manner

[1] Once the Commission has considered and authorized a variance in this regard, subsequent applications involving additional frequencies on the same path may reference the original showing rather than make a new showing.

[2] In recognition of our decision below concerning bandwidth in the 11 GHz band, we are specifying two loading figures for the band: one for equipment employing a bandwith of 20 MHz or less, and one for equipment utilizing between 20 and 40 MHz.

[3] In the alternate frequency plan each frequency is shifted 20 MHz from the standard plan.

which would encourage the development of each band for a type of use for which we believe it is best suited, considering technical development and economic incentive. To fragment the band would thwart its development in any real innovative fashion. Primarily, we see the 18 GHz band used for wide channel systems which would be highly satisfactory for high capacity trunking within metropolitan areas or as a short range intercity link between or into large metropolitan areas. The severe frequency congestion in the lower common carrier bands in many such areas makes such a system highly desirable, if not a necessity. Otherwise, in the future major communications routes within and into large cities will have to rely on buried cable (or waveguide) which is much more costly and can have a negative impact on environment during the construction stage.

12. While we would prefer most narrow channel systems be developed in the 22 GHz band, we recognize that path attenuation at 22 GHz is somewhat greater than at 18 GHz. We believe that, with slight modification, the channel arrangement we proposed can assure the success of wide band systems at 18 GHz while giving a reasonable growth potential to narrow channel systems in the same band. Accordingly, we are adopting the same channel plan as proposed but with two modifications. First, the channel arrangement has been renumbered as suggested by AT&T. Secondly, we are providing one additional expansion channel for narrow band systems. This second expansion channel (channel 7) is the same frequency but of opposition polarization from the first expansion channel (channel 8), and, therefore, it is not likely to further reduce the capacity of any wide channel system beyond that imposed by narrow band use of channel 8.[4] However, we wish to point out that the use of both channel 7 and 8 will be, as proposed, on an overflow basis. That is, before either will be authorized for narrow band use it must be shown that the 240 MHz primary allocation for narrow band use is unavailable on the path in question. Due to the superior performance characteristics of antennas at 18 GHz and transmission range limitations in the band, frequencies may be repeated much more often than would be possible in the lower bands. Therefore, we believe that the use of the expansion or overflow channels will not be widespread. However, where such use is necessary we will expect that frequency coordination take into consideration potential route blockage problems.[5]

13. We believe that the 18 GHz band should be considered primarily a common carrier band. Nonetheless, we do recognize the considerable gap between the current operational fixed allocation of 12,200–12,700 MHz and 22 GHz, which would be the next higher band for private use. Therefore, we believe that some limited sharing of the 18 GHz band with operational fixed users would be desirable. Despite some of the recognized problems inherent in cross service sharing, we are of the opinion that with proper care it can be successfully accomplished. In this connection, private users will be required to coordinate their frequency selections in the same manner as the carriers. In those instances where conflicts between the two services arise, the Commission will make a final determination. Additionally, the technical standards which must be met by private users will be largely identical to those for the carriers under Part 21 of the rules. Such modifications to the rules for private users as are necessary will be incorporated in connection with the proceeding in Docket No. 19869 et al. establishing a new Part 94 of the rules.[6] In this way, we hope to assure an efficient development of the band with as much compatibility between the services as possible.

14. With respect to the 22 GHz band, we are making few changes in the rules as proposed. We believe that the band should be as unstructured as possible to encourage its innovative use. Since there is 2400 MHz available in the band, congestion is not likely to be a problem in the foreseeable future. However, this does not mean that frequency assignments should not be made in an orderly manner. Although we consider the entire 2400 MHz to be shared, there is no reason why the technical problems involved in sharing (as noted in paragraph 13) need be of early concern. We are adopting rules which will in effect divide the bands into four segments of 600 MHz each. The first and third segments (i.e. 21,200–21,800 MHz and 22,400–23,000 MHz) shall be for primary use by common carriers. The second and fourth segments (i.e. 21,800–22,400 MHz and 23,000–23,600 MHz) shall be primarily for operational fixed use. In selecting a frequency or frequency pair, a user shall endeavor to select the lowest frequency available in a particular segment on a given path. A common carrier may utilize a frequency in an operational fixed segment when all common carrier frequencies on a path are exhausted. Of course, the same policy shall apply to private users seeking use of a frequency in a common carrier segment. Utilizing this approach, we believe cross service sharing problems will be minimized, yet more complete use of the full band enhanced. We do not anticipate subjecting the private user to the prior coordination requirements outlined for the 18 GHz band as long as the proposed use is within one of the band segments designated primarily for operational fixed use.

The 39 GHz Band

15. In the 39 GHz band (38,600–40,000 MHz) we proposed a frequency plan consisting of 14 channel pairs, each 50 MHz wide, which would be allocated for exclusive use by a carrier within a specified geographic area. Under this plan a licensee would be permitted to subdivide and use the assigned frequencies anywhere within such area without further authorization. The comments heavily supported this proposal. AT&T suggest that the proposal be modified to also allow assignment in the band for television pick up in the local Television Transmission Service. In addition, there was some comment supporting, and objecting to, private use of 39 GHz. API suggested that two channels be set aside for private use exclusively.

16. As a result of the comments, we are adopting the rules as proposed for 39 GHz without significant modifications. We are rejecting AT&T's suggestion for television pick up use. At this time it appears that the current allocations for that purpose in the 6 and 11 GHz bands are adequate to meet the demand. As to private use of the band we feel that there should be provision made for the sharing of frequencies in this range between the carriers and operational fixed users. Therefore, we are making available to private users exclusive rights to frequencies within an area in the same manner as for the carriers. However, we will require all users at 39 GHz, both private and common carriers, to show a reasonable projected need for a multiplicity of transmission paths within a given area before an exclusive 50 MHz assignment will be made in this band. We believe that requirements for one or several paths will be better served through use of frequencies in the 22 GHz band, as in the case of sharing at 18 GHz, the technical standards required at 39 GHz for licensees under the proposed Part 94 will be largely identical to those for common carriers.

Frequency Tolerance

17. In the notice we solicited comments on frequency tolerance requirements for frequencies 18 GHz and higher and whether the lower band tolerance should not be substantially tightened. We mentioned the figure .005 percent for the frequency range 2,450–10,500 MHz and .03 percent above that. The comments on this point were varied. Recommendations for the lower bands (usually defined as those frequencies below 10 to 15 GHz) ranged from .002 percent to .005 percent (the most common) and .03 percent; higher band recommendations were most commonly .03 percent but there were several recommendations for .01 percent. Comsat suggested .005 percent or 5 percent of the authorized bandwidth, whichever is the smaller.

18. After considering this matter we have decided to impose a tolerance of .005 percent for frequencies in the range 2,450–12,200 MHz and .03 percent above that. The large majority of equipment being manufactured today is capable of operation within this range. While im-

[4] We understand that the use of two digital transmitters on the same frequency, but of opposite polarization, is effective only where the signals utilize the same antenna (apparently because of off-path polarization shift). Therefore, use of channel 8 by narrow band systems would block development of channel 7 for a wide band system on a potentially interfering path.

[5] See paragraph 134 of the First Report and Order in this proceeding, 29 FCC 2d 870.

[6] See Notice of Proposed Rule Making, released Nov. 26, 1973 (FCC 73-1162).

proved transmitter stability will be an important factor over the long term as the spectrum becomes increasingly congested and more heavily loaded, the reduction from .03 to .005 percent is not critical, we believe, in the near future. Therefore, we have decided to make the conversion as painless as possible by applying the new standard only to new equipment authorized for use one year from the effective date of the rules.[7] Equipment authorized previous to that date will be "grandfathered" for life at the pre-existing .03 percent tolerance figure. Also, we are providing one further exception to the .005 percent figure. It was pointed out that the long range heterodyne systems are sometimes capable of significant cumulative frequency error when such equipment is operated over a number of hops without the signal being returned to baseband. Although, we do not believe that this will be a significant problem on an overall basis, we are including a provision in the rules whereby a somewhat looser tolerance can be authorized in specific instances where it can be justified. However, this is an operational relaxation only and will not affect type acceptance requirements for equipment.

OTHER MATTERS

19. The comments contained a number of miscellaneous suggestions concerning various matters. While we have considered all of these, we do not think it necessary to discuss each. Where we believed any such suggestion had merit and was within the scope of this proceeding, it was incorporated into the rules as contained below. Otherwise, such recommendations should be considered denied.

20. Two items, however, do merit brief comment. Pursuant to several suggestions, we are changing the maximum bandwidth in the band 27,500–29,500 MHz from 200 MHz to 220 MHz. This will enable equipment similar to that envisioned for 18 GHz to be developed for the higher band. Also, in the band 31,000–31,200 MHz we are reducing the maximum bandwidth from 200 MHz to 50 MHz due to the small size of the band. With respect to the proposed power limitation above the 15 GHz to 2 watts, we had a number of comments. Most suggested a higher limit, e.g. 10 or 20 watts. While we understand that equipment cannot now be economically manufactured with such power capability, our rules should not be unduly restrictive with respect to future development. Accordingly, we are relaxing that limitation to allow a maximum of 10 watts. However, we wish to emphasize that our policy (as expressed in § 21.107(a) of the rules) with regard to limiting the output power in each individual application to the minimum necessary to accomplish reliable communications remains unchanged.

CONCLUSION

21. In view of the foregoing, we are of the opinion that the modified rules as discussed above are in the public interest. Accordingly, *it is hereby ordered*, pursuant to authority contained in sections 4(i), 303 and 403 of the Communications Act of 1934, as amended, That Parts 2 and 21 of the Commission's rules and regulations are amended as reflected below effective August 9, 1974.[8] *It is further ordered* That this proceeding is terminated with respect to Issue E (and RM–1700 and RM–2024), but the Commission retains full jurisdiction over Issue D.

(Secs. 4, 303, 403, 48 Stat., as amended, 1066, 1082, 1094; 47 U.S.C. 154, 303, 403)

Adopted: June 25, 1974.

Released: July 5, 1974.

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

Parts 2 and 21 of 47 CFR Chapter I are amended as follows:

1. In § 2.106, the Table of Frequency Allocations is amended in columns 7 through 11 for the bands 17.7–19.7 GHz, 21.2–22.0 GHz, and 22.0–23.6 GHz; footnote NG106 is amended and new footnote NG107 is added to read as follows:

§ 2.106 Table of Frequency Allocations.

Band (GHz)	Service	Class of station	Frequency (GHz)	Nature {OF SERVICES of stations
7	8	9	10	11
* * *	* * *	* * *	* * *	* * *
17.7–18.36	FIXED. FIXED-SATELLITE. MOBILE.	Fixed. Mobile. Space.		Domestic fixed public. FIXED-SATELLITE.
18.36–19.04 (NG106)	FIXED. FIXED-SATELLITE. MOBILE.	Fixed. Mobile. Space.		Domestic fixed public. Operational fixed. FIXED-SATELLITE.
19.04–19.70	FIXED. FIXED-SATELLITE. MOBILE.	Fixed. Mobile. Space.		Domestic fixed public. FIXED-SATELLITE.
* * *	* * *	* * *	* * *	* * *
21.2–22.0 (NG107)	EARTH EXPLORATION-SATELLITE. FIXED. MOBILE.	Fixed. Mobile except aeronautical mobile. Space.		Domestic fixed public. Operational fixed. EARTH EXPLORATION-SATELLITE.
22.0–23.6 (NG107)	FIXED. MOBILE.	Fixed. Mobile except aeronautical mobile.		Operational fixed. Domestic fixed public.
* * *	* * *	* * *	* * *	* * *

NG FOOTNOTES

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NG106 In the band 18.36–19.04 GHz, frequencies in the band segments 18.36–18.58 GHz and 18.82–19.04 GHz may be assigned for use by operational fixed stations, only on condition that suitable alternative frequencies in the band segment 18.58–18.82 GHz are not available for assignment to such stations.

NG107 In the band 21.2–23.6 GHz, frequencies in the band segments 21.8–22.4 GHz and 23.0–23.6 GHz may be assigned to domestic fixed public stations, only on condition that suitable alternative frequencies in the band segments 21.2–21.8 GHz and 22.4–23.0 GHz are not available for assignment to such stations. Similarly, frequencies in the band segments 21.2–21.8 GHz and 22.4–23.0 GHz may be assigned to operational fixed stations, only on condition that suitable alternative frequencies in the band segments 21.8–22.4 GHz and 23.0–23.6 GHz are not available for assignment to such stations.

2. In § 21.1 add the following definition, in appropriate alphabetical order, to read as follows:

§ 21.1 Definitions.

* * * * *

Authorized bandwidth. The maximum width of the band of frequencies permitted to be used by a station. This is normally considered to be the necessary or occupied bandwidth, whichever is greater.

* * * * *

3. In § 21.101 the table in paragraph (a), footnote 2, and paragraph (b) are amended, and new paragraph (c) is added to read as follows:

§ 21.101 Frequency tolerance.

* * * * *

Frequency range (MHz)	Frequency tolerance (percent)		
	All fixed and base stations	Mobile stations over 3 W	Mobile stations 3 W or less [1]
25 to 50	0.002	0.002	0.005
50 to 450	.0005	.0005	.005
450 to 512	.00025	.0005	.0005
512 to 1,000 [2]	.0005	.0005	.005
2,110 to 2,200	.001		
2,200 to 12,200 [2]	.005	.005	.005
12,200 to 40,000	.03	.03	.03

* * * * *

[1] Beginning Aug. 9, 1975, this tolerance will govern the marketing of equipment pursuant to §§ 2.803 and 2.805 of this chapter and the issuance of all authorizations for new radio equipment. Until that date new equipment may be authorized with a frequency tolerance of 0.03 percent and such equipment may continue to be used for its life provided that it does not cause interference to the operation of any other licensee. Equipment authorized prior to June 23, 1969, at a tolerance of 0.05 percent may continue to be used until Feb. 1, 1976, provided it does not cause interference to the operation of any other licensee.

[7] The year's delay is to preclude the necessity for expensive modification of equipment currently being manufactured or otherwise in the supply pipeline. However, we urge all manufacturers to modify the design of all equipment not meeting the new stability requirements as soon as possible.

[8] The text also incorporated some rule changes necessary for consistency with the rules adopted in Docket No. 19547.

(b) Heterodyne microwave radio systems may be authorized a somewhat less restrictive frequency tolerance (up to .01 percent) to compensate for frequency shift caused by numerous repeaters between base band signal insertion. Where such relaxation is sought, applicant must provide all calculations and indicate the desired tolerance over each path. In such instances the radio transmitters used shall individually be capable of complying with the tolerance specified in paragraph (a) above.

(c) As an additional requirement in any band where the Commission makes assignments according to a specified channel plan, provisions shall be made to prevent the emission included within the occupied bandwidth from radiating outside the assigned channel at a level greater than that specified in § 21.106.

4. In § 21.107 paragraph (b) is amended to read as follows:

§ 21.107 Transmitter power.

* * * * *

(b) The rated power of a transmitter employed in these radio services shall not exceed the values shown in the following tabulation:

Frequency range (MHz):	*Rated power output (watts)*
Below 30	50
30 to 50	350
50 to 70	50
76 to 512	[1] 250
512 to 10,000	[2] 20
Above 10,000	[2] 10

[1] Transmitter rated power output is limited to a maximum of 25 watts on frequencies in the bands 454.6625–455.000 MHz and 459.6625–460.000 MHz.

[2] In the bands 5,925–6,425 MHz and 27,500–29,500 MHz the maximum effective isotropically radiated power of the transmitter and associated antenna of a station in the fixed service shall not exceed +55 dBW. This limitation is necessary to minimize the probability of harmful interference to reception in this band by space stations in the fixed-satellite service. In the band 2,150–2,162 MHz up to 100 watts may be authorized pursuant to § 21.904.

* * * * *

5. In § 21.108(e) the last two sentences are amended to read as follows:

§ 21.108 Directional antennas.

* * * * *

(e) * * * Methods of calculating azimuths to be avoided may be found in: CCIR Report # 393 (Green Books), New Delhi, 1970; in "Radio-Relay Antenna Pointing for Controlled Inference With Geostationary Satellites" by C. W. Lundgren and A. S. May, Bell System Technical Journal, Volume 48, No. 10, pages 3387–3422, December 1969; and in "Geostationary Orbit Avoidance Computer Program" by Richard G. Gould, Common Carrier Bureau Report CC–7201, FCC, Washington, D.C., 1972. This latter report and a card deck of the program itself are available through the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151, as report numbers PB–211–500, and PB–211–501.

6. In § 21.701, paragraph (a) and footnotes 4 and 5 are amended, footnotes 9 through 13 added, and new paragraphs (j) and (k) added to read as follows:

§ 21.701 Frequencies.

(a) Frequencies in the following bands are available for assignment to fixed radio stations in the Point-to-Point Microwave Radio Service:

2,100– 2,130 MHz [1 2 7]
2,160– 2,180 MHz [1 2 3]
3,700– 4,200 MHz [5 8]
5,925– 6,425 MHz [5 6 8]
10,700–11,700 MHz [3 9]
13,200–13,250 MHz [4]
17,700–19,700 MHz [5 10]
21,200–22,000 MHz [4 11 12 13]
22,000–23,600 MHz [4 11 12]
27,500–29,500 MHz [5]
31,000–31,200 MHz [4]
38,600–40,000 MHz [4]

* * * * *

[4] Frequencies in this band are shared with fixed and mobile stations licensed in other services.

[5] Frequencies in this band are shared with stations in the fixed-satellite service.

* * * * *

[9] The band segments 10.95–11.2 and 11.45–11.7 GHz are shared with space stations (space to earth) in the fixed-satellite service.

[10] The band segment 18,360–19,040 MHz is shared with operational fixed stations.

[11] Frequencies in this band are shared with Government stations.

[12] Assignments to common carriers in this band are normally made in the segments 21.2–21.8 GHz and 22.4–23.0 GHz and to operational fixed users in the segments 21.8–22.4 GHz and 23.0–23.6 GHz. Assignments may be made otherwise only upon a showing that no interference free frequencies are available in the appropriate band segments.

[13] Frequencies in this band are shared with stations in the earth exploration satellite service (space to earth).

* * * * *

(j) The band 17,700–19,700 MHz is allocated for both wide band (over 100 MHz) and narrow band (100 MHz or under) users. Assignments for wide band users shall be made on the basis of the following frequency plan consisting of eight two-way channels, each 220 MHz wide:

Channel group A		Channel group B	
Channel No.	Assigned frequency polarized vertically (V) or horizontally (H)	Channel No.	Assigned frequency polarized vertically (V) or horizontally (H)
1–A	17,810 V	1–B	19,590 V
2–A	17,810 H	2–B	19,590 H
3–A	18,030 V	3–B	19,370 V
4–A	18,030 H	4–B	19,370 H
5–A	18,250 V	5–B	19,150 V
6–A	18,250 H	6–B	19,150 H
7–A	18,470 V	7–B	18,930 V
8–A	18,470 H	8–B	18,930 H

Where narrow bandwidths are required, the lowest available frequency shall be selected in the band segment 18,580–18,700 MHz and/or 18,700–18,820 MHz. If frequencies of the desired (narrow) bandwidth cannot be accommodated in these band segments, application may be made for the lowest available frequency in the spectrum assigned to wide band channels 7 or 8 (i.e. 18,360–18,580 MHz or 18,820–19,040 MHz). Channels 7 and 8 may not be assigned for wide band use if any other wide band channels are available. If channels 7 and 8 are proposed for either wide or narrow band use, applicant shall make a statement that no alternative frequencies of the desired bandwidth are available in the band. Polarizations other than those specified above for wide band channels may be assigned if such use will not inhibit full development of all channels in the band.

(k) Assignments in the Band 38,600–40,000 MHz shall be according to the following frequency plan:

Channel group A		Channel group B	
Channel No.	Frequency band limits MHz	Channel No.	Frequency band limits MHz
1–A	38,600–38,650	1–B	39,300–39,350
2–A	38,650–38,700	2–B	39,350–39,400
3–A	38,700–38,750	3–B	39,400–39,450
4–A	38,750–38,800	4–B	39,450–39,500
5–A	38,800–38,850	5–B	39,500–39,550
6–A	38,850–38,900	6–B	39,550–39,600
7–A	38,900–38,950	7–B	39,600–39,650
8–A	38,950–39,000	8–B	39,650–39,700
9–A	39,000–39,050	9–B	39,700–39,750
10–A	39,050–39,100	10–B	39,750–39,800
11–A	39,100–39,150	11–B	39,800–39,850
12–A	39,150–39,200	12–B	39,850–39,900
13–A	39,200–39,250	13–B	39,900–39,950
14–A	39,250–39,300	14–B	39,950–40,000

These channels are assigned for use within a rectangular service area to be described in the application by the maximum and minimum latitudes and longitudes. Such service area shall be as small as practicable consistent with the local service requirements of the carrier. These frequency plans may be subdivided as desired by the licensee and used within the service area as desired without further authorization subject to the terms and conditions set forth in § 21.711. These frequencies shall be assigned only where it is shown that the applicant will have a reasonable projected requirement for a multiplicity of service points or transmission paths within the area.

7. In § 21.703 paragraph (g) is revised to read as follows:

§ 21.703 Bandwidth and emission limitations.

* * * * *

(g) The maximum bandwidth authorized shall not exceed that reasonably necessary to provide the proposed service but in no event shall it exceed the limits set forth below:

Frequency band (MHz):	*Maximum authorized bandwidth (MHz)*
2, 110 to 2,130	3.5
2,160 to 2,180	3.5
3,700 to 4,200	20.0
5,925 to 6,425	30.0
10,700 to 11,700	40.0
13,200 to 13,250	25.0
17,700 to 19,700	220.0
21,200 to 22,000	100.0
22,000 to 23,600	100.0
27,500 to 29,500	220.0
31,000 to 31,200	50.0
38,600 to 40,000	50.0

* * * * *

8. New § 21.710 is added to read as follows:

§ 21.710 Limitations on path lengths and channel loading.

(a) Frequencies in the following bands may not be used on transmission paths shorter than the indicated distances.

Frequency band (MHz):	*Minimum path distances (in kilometers)*
2,110 to 2,130	5
2,160 to 2,180	5
3,700 to 4,200	17
5,925 to 6,425	17
10,700 to 11,700	5

(b) Exception to the limits in paragraph (a) may be made by the Commission when a showing (with supporting facts) is made that use of a frequency in conformance with the rule would entail excessive cost in construction or maintenance or would otherwise create substantial difficulties. The alternate frequency proposal must be shown to be consistent with good engineering practice under the circumstances. Stricter adherence to these limitations is expected in areas of general frequency congestion. The distance limitation does not apply to a frequency which is power split if one transmission path utilizing that frequency meets the minimum distance requirement.

(c) Except for video transmission, an application for an initial working channel over a given route will not be accepted for filing where the anticipated loading (within five years or other period subject to reasonable projection) is less than the minimum specified for the following frequency bands. Absent extraordinary circumstances, applications proposing additional frequencies over existing routes will not be granted unless it is shown that the traffic load will shortly exhaust the capacity of the existing equipment.

Frequency band (MHz)	Minimum number voice channels (4 kHz or or equivalent)	Minimum digital data loading (in Mb/s)
3,700 to 4,200	900	10
5,925 to 6,425	900	10
10,700 to 11,700 (20 MHz bandwidth or less)	240	5
10,700 to 11,700 (bandwidth more than 20 MHz)	900	10

Where transmitters employing digital modulation techniques are designed to be used so that two may simultaneously operate on the same frequency over the same path, the minimum number of voice channels specified above is reduced from 900 to 500 per transmitter for the bands 3,700–4,200 MHz, 5,925–6,425 MHz, and 10,700–11,700 MHz.

9. New § 21.711 is added to read as follows:

§ 21.711 Special requirements for operation in the band 38,600–40,000 MHz.

Assigned frequency channels in the band 38,000–40,000 MHz may be subdivided and used anywhere in the authorized service area, subject to the following terms and conditions:

(a) No interference shall be caused to a previously existing station operating in another authorized service area.

(b) The Commission's Engineer in Charge of the radio district in which the intended operation is located shall be notified prior to the commencement of operation of each frequency path. Such notice shall include:

(1) The authorized call sign, transmitter station location number (assigned by the carrier in sequence of use beginning with number one) and transmitting station coordinates;

(2) Receiving station location number and coordinates;

(3) The exact frequency or frequencies to be used (which shall be considered the assigned frequency or frequencies); and

(4) Anticipated date of commencement of operation.

(c) The Engineer in Charge shall be notified within 10 days of the termination of any operation. The notice shall contain similar information to that contained in the notice of commencement of operation.

(d) Each operating station shall have posted a copy of the service area authorization and a copy of the notification provided to the Engineer in Charge.

(e) Twice each year, no later than January 31 and July 31, the Commission and the Engineer in Charge shall be provided a complete list (in tabular form) of all operations in each authorized service area (listing information as contained in the notices) current as of the previous January 1 or July 1. If no change has occured since the previous list was filed, a statement to that effect will be sufficient.

(f) The antenna structure height employed at any location shall not exceed the criteria set forth in § 17.7 of this chapter unless, in each instance, authorization for use of a specific maximum antenna structure for each location has been obtained from the Commission prior to the erection of the antenna.

10. In § 21.801 paragraphs (a) and (d) are amended as follows:

§ 21.801 Frequencies.

(a) Frequencies in the following bands are available for assignment to television pickup and television nonbroadcast pickup stations in this service:

6,425– 6,525 MHz
11,700–12,200 MHz [2]
13,200–13,250 MHz [1]
21,200–22,000 MHz [1 2 4 5]
22,000–23,600 MHz [1 2 5]

[1] This frequency band is shared with fixed and mobile stations licensed under Part 21 and other Parts of the Commission's Rules.

[2] This frequency band is shared with Government stations.

[3] This frequency band is shared, on a secondary basis, with stations in the broadcasting-satellite and fixed-satellite services.

[4] This frequency band is shared with stations in the earth-exploration satellite service.

[5] Assignments to common carriers in this band are normally made in the segments 21,200–21,800 MHz and 22,400–23,000 MHz and to operational fixed users in the segments 21,800–22,400 MHz and 23,000–23,600 MHz. Assignments may be made otherwise only upon a showing that interference free frequencies are not available in the normally assigned band segments.

* * * * *

(d) Frequencies in the following bands are available for assignment to television STL stations in this service:

3,700– 4,200 MHz [1 2]
5,925– 6,425 MHz [1 5]
10,700–11,700 MHz [1 6]
13,200–13,250 MHz [2]
21,200–22,000 MHz [2 4 7 8]
22,000–23,600 MHz [2 4 8]

[1] This frequency band is shared with stations in the Point to Point Microwave Radio Service and, in United States Possessions in the Caribbean area, with stations in the International Fixed Public Radiocommunications Services.

[2] This frequency band is shared with fixed and mobile stations licensed under Part 21 and other parts of the Commission's rules.

[3] This frequency band is shared with space stations (space to earth) in the fixed-satellite service.

[4] This frequency band is shared with Government stations.

[5] This frequency band is shared with earth stations (earth to space) in the fixed satellite services.

[6] The band segments 10.95–11:2 and 11.45–11.7 GHz are shared with space stations (space to earth) in the fixed-satellite service.

[7] This frequency band is shared with space stations (space to earth) in the earth exploration satellite service.

[8] Assignments to common carriers in this band are normally made in the segments 21,200–21,800 MHz and 22,400–23,000 MHz and to operational fixed users in the segments 21,800–22,400 MHz and 23,000–23,600 MHz. Assignments may be made otherwise only upon a showing that interference free frequencies are not available in the appropriate band segments.

* * * * *

11. In § 21.804 paragraph (d) is amended to read as follows:

§ 21.804 Bandwidth and emission limitations.

* * * * *

(d) Maximum bandwidths in the following frequency bands shall not exceed the limits set forth below:

Frequency band MHz	*Maximum Authorized Bandwidth MHz*
3,700 to 4,200	20
5,925 to 6,575	30
10,700 to 12,200	40
13,200 to 13,250	25
22,000 to 23,600	100

* * * * *

[FR Doc.74-15731 Filed 7-10-74;8:45 am]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

Inspection and Maintenance of Antenna Structures

In the matter of editorial amendment of Part 81 of the Commission's rules concerning inspection and maintenance of antenna structures.

1. By this order, it is intended to include certain provisions of Part 17 of the rules in Part 81 of the rules. These provisions govern inspection and maintenance of antennna tower marking and associated control. These inclusions are intended for the convenience of licensees of stations operated pursuant to Part 81.

2. Because these inclusions are editorial, the prior notice, procedure and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, do not apply. Authority for this amendment appears in section 4(i) and 303(r) of the Communications Act of 1934, as amended, and in § 0.231(d) of the rules.

3. In view of the above, *It is ordered*, That the rule amendment set forth below is adopted effective July 12, 1974.

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

Adopted: July 2, 1974.

Released: July 2, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] JOHN M. TORBET,
Executive Director.

Part 81 of 47 CFR Chapter I is amended as follows:

1. Section 81.193 is revised to read as follows:

§ 81.193 Inspection and maintenance of tower marking and associated control equipment.

The licensee of any radio station which has an antenna structure required to be painted or illuminated pursuant to the provisions of section 303(q) of the Communications Act of 1934, as amended, and/or Part 17 of this chapter, shall operate and maintain the tower marking and associated control equipment in accordance with the following:

(a) The tower lights be observed at least once each 24 hours, either visually or by observing an automatic and properly maintained indicator designed to register any failure of such lights, to insure that all such lights are functioning properly as required; or, alternatively, there shall be provided and properly maintained an automatic alarm system designed to detect any failure of the tower lights and to provide indication of failure.

(b) Any observed or otherwise known failure of a code or rotating beacon light or top light not corrected within thirty minutes, regardless of the cause of such failure, shall be reported immediately by telephone or telegraph to the nearest Flight Service Station or office of the Federal Aviation Administration. Further notification by telephone or telegraph shall be given immediately upon resumption of the required lighting.

(c) All automatic or mechanical control devices, indicators, and alarm systems associated with the tower lights shall be inspected at intervals not to exceed three months, to insure that such apparatus is functioning properly.

(d) All lighting shall be exhibited from sunset to sunrise unless otherwise specified in the instrument of station authorization.

(e) All towers shall be cleaned or repainted as often as is necessary to maintain good visibility.

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

[FR Doc.74-15853 Filed 7-10-74;8:45 am]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Dockets RSFC-1, 2 and 3]

PART 215—RAILROAD FREIGHT CAR SAFETY STANDARDS

On January 28, 1974, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (39 FR 3567) stating that the Federal Railroad Administration (FRA) was considering several amendments to part 215, Railroad Freight Car Safety Standards issued on November 12, 1973 (38 FR 32224).

Interested persons were invited to participate in this rule-making proceeding by submitting written comments before February 18, 1974. In consideration of a request by the Brotherhood of Railway Carmen of the United States and Canada, the period for filing of written comments was extended to March 15, 1974. In addition, at the request of the Congress of Railway Unions, public hearings were held on March 18, 1974.

After considering all of the comments submitted in writing and made at the hearing, FRA has decided that the proposed amendments should be adopted with several significant changes. These changes are discussed below by individual sections. In addition, several editorial changes and minor clarifying modifications of language have been made. Some comments suggested changed that were beyond the scope of the notice of proposed rulemaking. These suggestions are being considered by FRA and may be proposed in future rulemaking proceedings. Comments were submitted by railroad, shipper and labor organizations. FRA appreciates the assistance provided by the commenters.

Section 215.3(b). FRA proposed to exclude from these standards railroad freight cars bearing Canadian or Mexican reporting marks which operate from time to time in this country, in order to facilitate their free movement into the United States and between points in Canada which traverse the U.S. boundary. One comment submitted argued that all railroad freight cars operating within the United States should be required to comply with these minimum safety standards regardless of their national origin. It also pointed out that Canadian and Mexican cars operating in the United States must now comply with the Safety Appliance Acts (45 U.S.C. 1–16) and standards issued under those Acts (49 CFR Parts 231 and 232) as well as the interchange rules of the Association of American Railroads (AAR). On further consideration, FRA agrees that total exclusion of Canadian and Mexican cars operating in this country would not be in the interest of safety.

Accordingly, the final rule will only exclude these cars from the periodic inspection requirements of §§ 215.25 and 215.27 and the related stenciling requirements in § 215.11 (b) and (c). Since these cars operate mainly in Canada or Mexico and are inspected periodically in those countries, it is not necessary nor practicable to require them to comply with the periodic inspection requirements of these standards. FRA believes that this change will enable Canadian and Mexican cars to move freely in and out of this country and operate safely while they are here.

FRA also proposed to exclude from these standards railroad freight cars that operate primarily inside a non-railroad installation but do on occasion operate for short distance on track that is part of the general railroad system of transportation. One commenter pointed out that this general exclusion would primarily affect cars operated for steel and other industrial companies, many of which it alleged are in deplorable condition. After considering this matter, FRA has determined that cars operating in dedicated service for short distances over track in the general railroad system should not be automatically excluded from this part. Exclusion will be permitted for individual carriers only after FRA determines in each instance that the cars may be operated consistent with safety. Accordingly, this rule has been modified to require prior FRA approval of each exclusion. This approval may be obtained using the same procedures contained in § 215.225. FRA will examine the individual merits of each approval request.

Section 215.5. Several commenters expressed concern that the proposed definition of "cracked" in paragraph (b) did not appear to allow for minor irregularities that do not significantly diminish the strength of the member. To allay this concern, clarifying language has been added to this provision.

Several commenters noted a need for clarifying the proposed definition of "cushioning device" with respect to the amount of travel between coupler and body. This has been done by adding "in either direction" after the word "travel."

Section 215.9(a). This section has been amended as proposed in the NPRM to provide that a defective car may be moved for repair only after the person in charge is notified in writing of the presence of the defective car and the restrictions under which it must be operated. A "bad order card" may be used for this purpose. After he receives written notification, the person in charge must convey this information to all other crew members.

One commenter felt that requiring the person in charge of the train to notify other crew members of defective cars in the train would place an unnecessary burden on this person. FRA believes that this should not prove to be more burdensome than other routine notification concerning operation of the train.

This commenter also suggested that the term "conductor" be used instead of "person in charge of the train" because

the conductor is generally recognized as being in charge of the train. FRA believes that the term "person in charge of the train" is preferrable to specifying a particular job title or craft.

As an option to written notification, another commenter suggested radio notification of the person in charge who would then write the message and read it back to the person transmitting it, who would also maintain a written record of the message. FRA will consider this suggestion in developing radio procedure rules for train operations.

Section 215.11. One commenter suggested that more flexibility be provided with respect to location of the letter "R" specified in paragraph (b) and the location of stencilling specified in paragraphs (c) and (d). FRA agrees. Paragraph (b) has changed to provide that the letter "R" may be placed either immediately to the right or below the reporting mark. Paragraphs (c) and (d) have been changed to allow the stencilling to be located near either end on each side of the freight car body.

This commenter also suggested that the words "display" and "displayed" be substituted for "stencilling" and "stencilled" throughout this section to make it clear that the use of decals or other methods are also authorized. Accordingly, the words "or other display" and "or otherwise displayed" have been added after "stencilling" and "stencilled", respectively.

In addition, paragraph (c)(1) has been amended to require the reporting mark of the railroad that initially operates a newly built car to be placed immediately after the "BLT" date. This change corresponds to the requirement of paragraph (c)(2) that the reporting mark of the railroad that initially operates a car after it was last reconditioned be placed immediately after the "RCD" date.

Paragraph (d) has been adopted as proposed except for deletion of "near the car numbers". This language was deleted as surplusage.

Section 215.15(a). The provision has been changed as proposed in the NPRM by adding the word "applicable" before "requirements".

Section 215.17(c). The proposed amendment for granting of waivers within 90 days has been adopted.

One commenter noted that this provision could present administrative problems since opportunity for hearing must be provided before a waiver can be granted. This commenter suggested that language be added to make it clear that failure of the FRA to rule within 90 days would be deemed denial of the petition for waiver. This is not necessary because before a waiver can be granted, FRA must find that the waiver is in the public interest and consistent with railroad safety. Thus, in the absence of these findings and an explicit affirmative granting of a waiver by FRA, petitioners must continue to comply with the standards. Moreover, automatic denial of petitions merely because the FRA fails to decide them on their individual merits within 90 days would be unjust and serve no useful purpose.

Section 215.23. Paragraph (a) has been amended as proposed in the NPRM by removing the provision which allows a car, placed in a train at a location where a person designated as qualified under § 215.15 is not on duty to inspect the car, to be inspected instead by available personnel at that point, and to proceed to the next point enroute where a safety inspection may be performed by a designated qualified person. This subject will be handled instead under instructions for safety inspections submitted by railroads under §§ 215.29 and 215.31. Because of these changes the date for filing of instructions for safety inspections prescribed in paragraph (b) has been changed to August 1, 1974 and the date after which these inspections must be made, specified in paragraph (a), has been changed to November 1, 1974.

One commenter expressed concern that allowing each railroad to submit to FRA its instructions for safety inspection would result in a wide variety of instructions among railroads. FRA intends to avoid this result through the process of approving and amending instructions for safety inspections under §§ 215.29 and 215.31.

One commenter contended that paragraph (b) constitutes an illegal delegation of authority to railroads by allowing them to establish the criteria for inspection. FRA does not agree. All instructions for safety inspections submitted must be approved by the FRA before they become operative and may be amended by FRA before and after they are approved.

Section 215.31. Paragraph (b) has been amended as proposed in the NPRM, to provide that a period of not less than 30 days for railroads to respond in writing to amendments proposed by FRA on its own motion under paragraph (a)(2).

One commenter noted that only railroads may apply for amendment of safety inspection instructions or periodic inspection programs and that the interested public and rail labor organizations may be competent to offer worthy proposals for FRA consideration. FRA welcomes proposals from any source, will give them full consideration and, if warranted, will initiate an amendment on its own motion under paragraph (a)(2).

Section 215.43. The present description in subsections (f), (g) and (h) of defective wheels due to a chip in the rim have been simplified and consolidated into a new subsection (f) as proposed in the NPRM. In addition, the definition of a defective wheel due to overheating has been revised as proposed.

Section 215.45. The proposed reduction of minimum distance between the inside faces of wheel rims from 53 to $52\frac{15}{16}$ inches has been adopted.

Section 215.89. As proposed in the NPRM, the provision that a plain bearing is defective due to overheating if it has a journal temperature of 400° F or more, has been deleted.

Section 215.93. Paragraph (b) has been amended as proposed by changing the overheating temperature from 200° to 250° F and changing condition (4) to specify that a roller bearing is defective if a truck side frame key, pedestal bolt or stop block is missing (unless by design).

One commenter stated that the truck side frame key is merely a shopping or maintenance convenience to assist in lifting a truck and is not related to operational safety since the key can be expected to break rather than to maintain the wheel assembly in place in a derailment. FRA believes that the key contributes significantly to operational safety by retaining the wheels, axle, bearing and adapter assembly in place when the truck side frame lifts in service and by preventing critical defects such as displaced adapters which could result in bearing failures.

Section 215.97. Paragraph (a) has been amended as proposed by substituting "stabilized journals", for "journal stops". In addition, the text of this paragraph has been changed to conform with other sections describing defective car components.

Section 215.99. The table in paragraph (a) has been amended as proposed by adding the words "or less" immediately after "11 in." in the last line. The text of this paragraph has also been changed to conform with other sections describing defective car components.

Section 215.123. In paragraph (c), condition (3) is amended as proposed by adding "end" immediately after the word "one".

Section 215.153. Proposed condition (h) has been changed to read "center pin missing (unless by design)". This change was made to provide for cars designed without a center pin, such as span bolster cars with an interference fit of approximately 5 inches between male and female portions.

Section 215.193. Condition (c) has been adopted as proposed by adding "(except by design)" after "missing".

Section 215.195. As proposed in the NPRM, this section has been revoked in its entirety.

Section 215.197. Paragraph (b) has been revoked as proposed.

Section 215.223. This section has been amended as proposed to prohibit operation of a freight car equipped with a component listed in Section I of Appendix B after December 31, 1974 if the car has received its first periodic inspection under § 215.25, or a railroad knows or has notice that the car is so equipped. Since all cars must receive their initial periodic inspection by December 31, 1976, a car so equipped may not be operated after that date.

This section has also been amended to make it clear that until one of these events occurs, this section applies only to cars required to be placarded under the Hazardous Materials Regulations.

Section 215.225. Amendments corresponding to those in § 215.223 have also been adopted for restricted cars as proposed in the NPRM.

In addition, the information to be supplied with each petition for approval of conditions under which restricted cars

are to be operated has been expanded to include statements of the condition, status and age of the cars involved and that each car has been examined by a person designated under § 215.15 and found to be safe to operate under the conditions described in the petition. These new items of information were not proposed in the NPRM. However, since they are merely procedural in nature, notice and public proceedings are not required.

Appendix A. The captions for Gage Nos. 1–6 and 8 have been amended as proposed to specify "rust proof finish".

Appendix C. In Example 1, the words "stabilized journals" have been substituted for "journal stops" in the text and the letters "SAC" for "SP" in the extreme right column of the stencilling format.

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

In consideration of the foregoing, 49 CFR Part 215 is amended as set forth below to become effective immediately. The NPRM in this proceeding gave notice that the final rule might become effective less than 30 days after issuance. Because of the current national freight car shortage, good cause exists for making this amendment effective less than 30 days after publication. In these circumstances, petitions for reconsideration under Rule 33 of the FRA rulemaking procedures (49 CFR 211.33) must be filed before July 20, 1974, petitions filed after that date will be considered as petitions for rule making.

Issued in Washington, D.C. on July 5, 1974.

JOHN W. INGRAM,
Administrator.

1. Section 215.3 is revised to read as follows:

§ 215.3 Application.

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

(b) Sections 215.11(b), (c) and (d), 215.25 and 215.27 do not apply to any car owned by a Canadian or Mexican Railroad with Canadian or Mexican reporting mark and car number.

(c) A railroad may operate railroad freight cars in dedicated service between installations over track that is part of the general railroad system of transportation, only under conditions approved by the Federal Railroad Administrator. Requests for approval must be submitted in accordance with the requirements of § 215.225(c).

2. Section 215.5 is amended by adding a new paragraph (b), amending and redesignating existing paragraph (b) as paragraph (c), amending and redesignating existing paragraph (c) as paragraph (d), and adding a new paragraph (e) as follows:

§ 215.5 Definitions.

* * * * *

(b) "Cracked" means broken or fractured without complete separation into parts. Castings with shrinkage cracks or hot tears that do not significantly diminish the strength of the member are not considered to be "cracked".

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

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

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

(1) Their original condition; or

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

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

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

§ 215.9 Movement of defective cars for repair.

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

(1) A person designated under § 215.15 determines—

(i) That it is safe to move the car; and

(ii) The maximum speed and other restrictions necessary for safely conducting the movement; and

(2) The person in charge of the train in which the car is to be moved is notified in writing and informs all other crew members of the presence of the defective car and the maximum speed and other restrictions determined under paragraph (a)(1)(ii) of this section. A copy of the railroad's "bad order tag or card" containing this information may be used for this purpose.

* * * * *

4. § 215.11 is amended by revising paragraphs (b) and (c), adding a new paragraph (d) and redesignating existing paragraph (d) as paragraph (e), to read as follows:

§ 215.11 Stenciling.

(a) The railroad or private car owner reporting mark and the car number must be stenciled or otherwise displayed in clearly legible letters and numbers at least 7 inches high on each side of each railroad freight car body. On tank cars the reporting mark and car number may appear on the car in any location that is visible to a person walking at track level alongside the car.

(b) After December 31, 1974, each railroad freight car described in § 215.225(a) which has received its initial periodic inspection under § 215.25 or which the railroad knows, or has notice, that it is described under § 215.225, and after December 31, 1976, every car described in § 215.225(a), must be stenciled or otherwise display in clearly legible letters on each side as follows:

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

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

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

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

(1) The symbol "BLT" followed by the month and year the car was originally constructed and the reporting mark of the railroad that initially operated the car.

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

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

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

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

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

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

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

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

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

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

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

(i) The reporting mark of that railroad; and

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

(7) After December 31, 1976, except for a car originally constructed or reconditioned within the period required by § 215.25 for periodic inspection, the symbol "INSP" followed by—

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

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

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

(d) To the extent that it is impracticable to stencil in a tabular form information described in paragraphs (b) and (c) of this section, this information may be stenciled or otherwise displayed in another form.

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

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

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

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

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

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

5. In § 215.15, paragraph (a) is revised to read as follows:

§ 215.15 Designation of qualified persons.

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

* * * * *

6. In § 215.17, paragraph (c) is revised to read as follows:

§ 215.17 Waivers.

* * * * *

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

7. In § 215.23, paragraphs (a) and (b) are revised to read as follows:

§ 215.23 Safety inspection required.

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

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

8. In § 215.31, paragraph (b) is revised to read as follows:

§ 215.31 Amendment procedures.

* * * * *

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

* * * * *

9. Section 215.43 is amended by amending paragraph (f), revoking paragraphs (g) and (h) and redesignating existing paragraphs (i) through (q) as paragraphs (g) through (o) as follows:

§ 215.43 Defective wheels.

* * * * *

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

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

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

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

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

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

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

(m) Any welding on the wheel.

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

(o) Painted so as to conceal defects.

10. Section 215.45 is revised to read as follows:

§ 215.45 Defective wheel sets.

A wheel set is defective if the wheels are out of gage so that the distance between the inside faces of the wheel rims is less than 52-15/16 inches or more than 53⅜ inches.

11. The text of § 215.89 is amended to read as follows:

§ 215.89 Defective plain bearings.

A plain bearing is defective if it is not located in its design position or has any of the following conditions:

(a) A break, or crack.

(b) Overheating as evidenced by—

(1) Melted babbit;

(2) Smoke from hot oil; or

(3) Journal surface damaged.

(c) Wear at either end which reduces its length more than one-fourth inch. (Dimension A in Figure 6.)

(d) Combined wear that reduces its length more than three-eighths inch. (Dimension A in Figure 6.)

(e) A lug worn more than one-eighth inch. (Dimension B in Figure 6.)

(f) Combined wear on both sides of the lug extension more than one-fourth inch. (Dimension C in Figure 6.)

(g) A loose lining or section of lining broken out.

(h) Lining worn through to brass more than three-eighths inch above the lower edge of the brass sidewall. (Dimension D in Figure 6.)

* * * * *

12. Paragraph (b) of § 215.93 is revised to read as follows:

§ 215.93 Defective roller bearings.

* * * * *

(b) A roller bearing is defective if it has any of the following conditions:

(1) Overheating in excess of 250° F.

(2) A loose or missing cap screw.

(3) A broken, missing (unless by design), or improperly applied cap screw lock.

(4) A missing (unless by design) truck side frame key, pedestal bolt or stop block.

(5) A loose or nonfunctioning seal.

13. Paragraph (a) of § 215.97 is amended to read as follows:

§ 215.97 Plain bearing boxes.

(a) A plain bearing box is defective if within the preceding 24 months, or in the case of a plain bearing box equipped with rear seal, box lid seal, and stabilized journal, within the preceding 30 months–

(1) It was not repacked or prescribed by paragraph (b) of this section; or

(2) The car was not reconditioned or originally constructed.

* * * * *

14. The chart in paragraph (a) of § 215.99 is revised as follows:

§ 215.99 Roller bearings.

(a) A roller bearing designed to be periodically lubricated is defective if—

(1) It has not been lubricated as prescribed by the following chart and by paragraphs (b) and (c) of this section; or

(2) The car was not reconditioned or originally constructed within the number of months prescribed in the chart for lubricating roller bearings:

Description of bearing	Size of bearing	Amount of lubricant required	Lubricate bearings within the following number of months before car is operated
Oil lubricated	All	Fill to maximum level	12
Grease lubricated; end caps do not rotate	do	16 oz	18
Grease lubricated; end caps rotate	12 in	12 oz	36
	11 in—or less	8 oz	36

* * * * *

15. Paragraph (c) of § 215.123 is amended to read as follows:

§ 215.123 Defective car trucks.

* * * * *

(c) With respect to the side bearings—

(1) One is broken or missing;

(2) The bearings at one end of the car on both sides are in contact with the body bolster, except by design;

(3) The bearings at one end of the car have a total clearance from the body bolster of more than three-fourths inch; or

(4) At diagonally opposite sides of the car, the bearings have a total clearance from the body bolsters of more than three-fourths inch.

* * * * *

16. § 215.153 is amended by adding a new paragraph (h) which reads as follows:

§ 215.153 Defective car bodies; loaded or empty.

* * * * *

(h) Center pin missing (unless by design).

17. § 215.193 is revised to read as follows:

§ 215.193 Defective draft arrangement.

A draft arrangement is defective if it has any of the following conditions:

(a) A break in the yoke.

(b) A yoke strap worn more than 25 percent of its cross sectional area.

(c) A missing (except by design) or broken follower plate, draft lugs or fasteners, draft gear, draft key, or draft key retainer.

(d) A draft key worn more than 25 percent of its cross sectional area.

§ 215.195 [Revoked]

18. § 215.195 revoked in its entirety.

19. § 215.197 is revised to read as follows:

§ 215.197 Defective cushioning devices.

A cushioning device is defective if it is broken, inoperative, or missing a part.

20. § 215.223 is revised to read as follows:

§ 215.223 Prohibited cars.

A railroad may not operate a railroad freight car equipped with any design or component listed in Section I of Appendix B to this part after—

(a) December 31, 1973, to transport commodities subject to the hazardous materials regulations in Parts 170–189 and requiring placards under Subpart C of Part 174 of this Title.

(b) December 31, 1974, if the car has received its initial periodic inspection under § 215.25 or a railroad knows, or has notice, that the car is equipped with the design or component.

(c) December 31, 1976.

21. Paragraphs (b) and (d) of § 215.225 are revised to read as follows:

§ 215.225 Restricted cars.

* * * * *

(b) Subject to the requirements of paragraph (d) of this section, a railroad may operate railroad freight cars described in paragraph (a) of this section only under conditions approved by the Federal Railroad Administrator, after December 31, 1974, if the car has received its initial periodic inspection under § 215.25 or the railroad knows or has notice that the car is equipped with the design or component; or December 31, 1976. Petitions for approval must be submitted to the Administrator in triplicate at least 90 days before the date the approval is requested to become effective. Each petition for approval must state:

(1) The name and principal business address of the petitioning railroad;

(2) The name and address of the entity that controls the operation and maintenance of the cars involved;

(3) The number, type, capacity, reporting mark and car numbers of the cars, their condition, status and age measured from date of original construction, and any design or type component or other reason which causes them to be restricted;

(4) The maximum load the cars would carry;

(5) The maximum speed at which the cars would be operated;

(6) The territorial limits in which the cars would be operated; and

(7) If the cars would be interchanged with other railroads, the names of those railroads.

(8) That each car has been examined by a person designated under § 215.15 and found to be safe to operate under the conditions set forth in the petition.

* * * * *

(d) A railroad may not use a car described in paragraph (a) of this section to transport commodities identified by the Hazardous Materials Regulations in Parts 170–189 of this title, and which is required to be placarded under Subpart C of Part 174 of this title.

22. Appendix A to Part 215 is amended by changing the captions for Gage Nos. 1–6, and 8 to read as follows:

* * * * *

Gage No. 1—Wheel Defect Gage
(A.A.R. Gage No. 34401)
Material: 3/32" Steel Plate-Hardened; Rust Proof Finish

Gage No. 2—Simplified Steel Wheel Gage
(A.A.R. Gage-Simplified Wheel)
Material: 3/32" Steel Plate-Hardened; Rust Proof Finish

Gage No. 3—Guard Arm and Contour
Gage (Type E Coupler)
(A.A.R. Gage No. 25623)
Material: 1/8" Steel Plate-Hardened; Rust Proof Finish

Gage No. 4—Guard Arm and Contour Gage
(Type F Coupler)
(A.A.R. Gage No. 36527-2)
Material: 3/16" Steel Plate-Hardened: Rust Proof Finish

Gage No. 5—Knuckle Wear Gage
(Type E Coupler)
(A.A.R. Gage No. 44057)
Material: 3/16" Steel Plate-Hardened: Rust Proof Finish

Gage No. 6—Knuckle Wear and Stretch Gage
(Type F Coupler)
(A.A.R. Gage No. 44250-3)
Material: 3/16" Steel Plate-Hardened: Rust Proof Finish

Gage No. 8—Adapter Wear Gage
(A.A.R. Alternate Standard)
Material: Steel Plate-Hardened; Rust Proof Finish.
Tolerance: +1/64" unless otherwise specified.
Break Sharp Corners.

23. Example 1 of Appendix C to Part 215 is amended to read as follows:

APPENDIX C—STENCILING EXAMPLES

This appendix contains examples of stenciling or other display required by § 215.11(c).

Example 1. In September 1980, a railroad operates a railroad freight car that was originally constructed in August 1958. It is a high utilization car, as defined by § 215.25(b), for which the Chessie System has records at its office in Baltimore, Maryland to show that the car traveled less than 25,000 miles in the preceding 12 months. The car has been reconditioned twice, the last time in July 1973, by the Best Forge and Foundry before it was released to the Penn Central. The car is equipped with plain bearing boxes with rear seals, box lid seals, and stabilized journals. The most recent lubrication under § 215.97 was performed by the Southern Pacific at its facility in Sacramento, California in June 1979.

§ 215.11(c), clause—	Stenciling or other display		
(1)	BLT	8-58	
(2)	RCD	7-73 PC	BFF
(3)-(5)	RPKD-30	6-79 SP	SAC
(6)	HU	C&O/B&O BALTO	
(7)	[1]	[1] [1]	[1]

[1] No entry required under clause (7) because under § 215.25 a high utilization car for which mileage records are kept need not be inspected within 96 months after the car is reconditioned.

* * * * * * *

[FR Doc.74-15772 Filed 7-10-74;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Monomoy National Wildlife Refuge, Mass.

The following special regulations are issued and are effective during the period July 14, 1974 through December 31, 1974.

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

MASSACHUSETTS

MONOMOY NATIONAL WILDLIFE REFUGE

Foot entry to the Monomoy Island wilderness area is permitted for the purposes of photography, nature study, and hiking during daylight hours. Shellfishing is permitted in conformance with regulations prescribed by the Town of Chatham. Pets are permitted on a leash not exceeding 10 feet in length. Fires are permitted on the beach. Boats may be beached on the refuge. Tidewater fishing is permitted 24 hours a day. Erection of tents and other structures is not permitted.

Entry to the Morris Island portion of the refuge is permitted daily by advance reservation only during daylight hours for the purposes of photography, nature study, and hiking. Tidewater fishing is also permitted on this area 24 hours a day. Only a limited number of motor vehicles can be accommodated on the refuge at the designated parking area adjacent to refuge headquarters. Entrance permits for specific dates are issued by mail upon request or by telephone during the period July 14 through September 10, 1974 from the Biological Aid, Monomoy National Wildlife Refuge, Wiki Way, Chatham, Massachusetts 02633, telephone 617-945-0594; or during the period September 11 through December 31, 1974 from the Refuge Manager, Great Meadows National Wildlife Refuge, 191 Sudbury Road, Concord, Massachusetts 01742, telephone 617-369-5518.

The refuge, comprising 2,696 acres, is delineated on a map available from the Refuge Manager, Great Meadows National Wildlife Refuge, 191 Sudbury Road, Concord, Massachusetts 01742, or from the Regional Director, Fish and Wildlife Service, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in 50 CFR Part 28, and are effective through December 31, 1974.

WILLARD M. SPAULDING, Jr.,
Acting Regional Director,
Fish and Wildlife Service.

[FR Doc.74-15837 Filed 7-10-74;8:45 am]

proposed rules

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

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 25]

CUSTOMS BONDS; AMENDMENTS TO CERTAIN FORMS

Notice of Extension of Time for Submission of Data, Views, or Arguments

JULY 3, 1974.

On May 21, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 17870) which proposed the incorporation of Immigration and Naturalization Service Form I–310 into the Vessel, Vehicle, or Aircraft Bonds, Customs Forms 7567 and 7569, and the amendment of Condition 4 of the Vessel, Vehicle, or Aircraft Bonds. Interested parties were given until June 20, 1974, to submit data, views, or arguments pertinent to the proposals.

Requests have been received for extension of the time for submission of comments. Accordingly, the period for submission of data, views, or arguments to the proposed amendment of the Vessel, Vehicle or Aircraft Bonds, Customs Forms 7567 and 7569, is extended to August 20, 1974.

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

[FR Doc.74–15922 Filed 7–10–74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

SAFE USE OF GLYCINE IN FOOD FOR HUMAN CONSUMPTION

Withdrawal of Proposal and Termination of Rule Making Proceedings

A proposal to establish a "provisional" food additive regulation (21 CFR 121.4002) was published in the FEDERAL REGISTER of July 24, 1971 (36 FR 13790) to provide for certain technological uses of glycine in food, pending the development of additional data to complete the requirements of food additive petitions pursuant to 21 CFR 121.51 as follows:

Uses	*Limitation*
As a masking agent for the bitter aftertaste of saccharin in carbonated, artificially sweetened beverages.	Not to exceed 0.2 percent of the finished product.
As a flavor agent in butterscotch and toffee flavorings employed in the manufacture of frosting mixes.	Not to exceed 0.9 percent of the flavorings.
As a stabilizer in mono- and diglycerides prepared by the glycerolysis of edible fats or oils.	Not to exceed 0.2 percent of the mono- and diglycerides.

The Commissioner advises that the requirements for promulgating an interim food additive regulation to allow for the continued use of a substance for a limited period of time while a substantial question of safety or functionality is being resolved by further study are set forth in § 121.4000 (21 CFR 121.4000). Any further request(s) for permission to use glycine on a temporary basis for a particular use, pending a decision on the issuance of a food additive regulation for that use, should be submitted as a petition for an interim food additive regulation, as provided in § 121.4000. (Section 121.4000 was not in effect when the "provisional" food additive regulation for certain uses of glycine (21 CFR 121.4002) was proposed.)

Since publication of the proposal, the petition (FAP 1A2674) proposing the use of glycine as a flavor agent in butterscotch and toffee flavorings has been withdrawn, notice of which was published in the FEDERAL REGISTER of November 25, 1971 (36 FR 22617), and a food additive regulation (21 CFR 121.1257) authorizing the two remaining uses is published elsewhere in this issue of the FEDERAL REGISTER. Consequently, the establishment of a "provisional" regulation for glycine is no longer appropriate.

Accordingly, the proposal is withdrawn and the rule making proceeding in that matter is hereby terminated.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 2, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–15849 Filed 7–10–74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

DISTRICT OF COLUMBIA

Proposed Revision to Implementation Plan

On May 31, 1972 (37 FR 10842) and September 22, 1972 (37 FR 19806), the Administrator approved the District of Columbia's implementation plan to attain and maintain the national ambient air quality standards.

On May 24, 1974 the District of Columbia submitted a proposed revision to section 8–2: 713 (Visible Emissions) of their Air Quality Control Regulations. This revision, which was subjected to a public hearing held in the Council Chamber on March 21, 1974, will prohibit visible emissions from stationary sources: provided, that discharges not exceeding 20 percent opacity (or No. 1 on the Ringelmann Chart) shall be permitted for 2 minutes in any 60 minute period and for an aggregate of 12 minutes in any 24 hour period.

This amendment constitutes a revision to sections 52.470 and 52.486 of the approved District of Columbia Implementation Plan. This notice is issued to advise the public of the receipt of this proposed amendment and to request public comment on it. The Administrator's decision to approve or disapprove revisions to a plan is based on whether they meet the requirements of section 110(a)(2)(A)–(H) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

All comments should be addressed to the Director, Air & Water Programs Division, Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, 2nd Floor, Philadelphia, Pennsylvania, 19106.

Only comments received on or before August 12, 1974 will be considered. Copies of the amendment to the District of Columbia Implementation Plan are available for public inspection during normal business hours at the Offices of EPA, Region III, Curtis Building, Sixth and Walnut Streets, 2nd Floor, Philadelphia, Pennsylvania 19106; the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C. 20460, and at the District of Columbia Department of Environmental Services, Bureau of Air and Water Quality Control, Presidential Building, 412 12th Street NW., Washington, D.C. 20004.

DANIEL J. SNYDER III,
Regional Administrator.

[FR Doc.74–15787 Filed 7–10–74;8:45 am]

[40 CFR Part 52]

IOWA

Proposed Revision to Implementation Plan

On December 11, 1973, the Iowa Air Quality Commission adopted amendments to the Rules and Regulations Re-

lating to Air Pollution Control. These amendments were the subject of a public hearing held in Des Moines, Iowa, on April 25, 1973. The amended regulations became rules of the Iowa Department of Environmental Quality on December 11, 1973.

A proposed change would require evaluation of new or modified direct sources with respect to their impact on attainment and maintenance of the National Ambient Air Quality Standards instead of the consideration of its effect on life and property.

The regulations have been revised to provide for the public availability of data and require the maintenance of emission records.

The subsection entitled "Emission Reduction Program," has been amended to clarify the required increments of progress necessary for an approvable emission reduction program. The five increments of progress now required are the same as those specified at 37 FR 26310, which were published on December 9, 1972.

A chapter has been added to specify the requirements necessary to attain qualification in visual determination of the opacity of emissions. These requirements are at least as stringent as those specified by the EPA in Method 9, Part 60 of this chapter.

The New Source Performance Standards published December 23, 1971 (36 FR 24876), have been included as a part of the rules and regulations.

The emission standard for nitrogen oxides from the use of fuels and manufacture of nitric acid has been deleted. This change results from the reclassification of certain Air Quality Control Regions (AQCR) in the State of Iowa due to modifications in the methods for ambient air monitoring of nitrogen dioxide. On May 8, 1974 (39 FR 16344), EPA reclassified the Omaha-Council Bluffs Interstate AQCR to Priority III for nitrogen dioxide. Therefore, the entire state is classified as Priority III for nitrogen dioxide.

The emission standard for sulfur dioxide from sulfuric acid plants has been changed from 6.5 pounds per ton of 100 percent acid produced to 30 pounds per ton of 100 percent acid produced. The original standard was based on air monitoring data measured in East Peoria, Illinois. Atmospheric dispersion modeling conducted by the Iowa Department of Environmental Quality has indicated that the less stringent sulfur dioxide emission standard will not prevent the attainment or maintenance of ambient air quality standards for sulfur dioxide in any AQCR in Iowa.

The January 1, 1974 interim emission standard for sulfur dioxide emitted by fuel burning sources has been deleted. The January 1, 1975 emission standard for fuel burning sources remains in effect. Provisions for submission of compliance schedules for sources equal to or greater than 250 million BTU per hour heat input have been included pursuant to Part 51 of this chapter.

These changes constitute a proposed revision to the State of Iowa Implementation Plan, pursuant to § 51.8 of this chapter. This notice is issued to advise the public of the receipt of this proposed change and to request public comment. The Administrator's decision to approve or disapprove revisions to a plan is based on whether such revisions meet the requirements of section 110(a)(2)(A)(H) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

All comments should be addressed to the Regional Administrator, Environmental Protection Agency, Region VII, 1735 Baltimore, Kansas City, Missouri 64108. Only comments received by August 12, 1974 will be considered. Copies of the proposed revision to the State of Iowa Implementation Plan are available for public inspection during normal business hours at the office of EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108; the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C. 20460; and at the Iowa Department of Environmental Quality, 3920 Delaware, Des Moines, Iowa 50316.

(42 U.S.C. 1857c-5)

Dated: July 2, 1974.

JEROME H. SVORE,
Regional Administrator.

[FR Doc. 74-15786 Filed 7-10-74;8:45 am]

[40 CFR Part 52]

KANSAS

Proposed Revision to Implementation Plan

The Kansas State Board of Health has adopted amendments to the State Air Pollution Emission Control Regulations. These amendments were subjected to a public hearing in Topeka, Kansas, on September 6, 1973, and became effective January 1, 1974.

The regulations have been amended to provide for state regulatory control of small-sized incinerators (i.e., less than 200 lb/hr capacity), which were previously exempted.

The compliance schedule regulation has been amended to require that all existing air pollution sources are to be brought into compliance with the regulations within a period of 180 days of receipt of a reporting notification issued by the Kansas State Department of Health. Those sources which cannot comply within the time period must request and be granted a variance by the Kansas State Board of Health after a public hearing. Previously, a source submitted a request to operate in nonconformance to the applicable regulations.

All open burning operations other than those specifically exempted by Regulation 28-19-47 titled "Exemptions—Open Burning" must cease operation immediately. A section has been added to Regulation 28-19-47 to authorize certain types of open burning operations associated with land clearing and crop and game management practices.

A regulation has been added which requires that all new or altered air pollution sources be reviewed and approved by the Department of Health prior to the initiation of construction.

The sulfur oxide emission standard applicable to existing sulfuric acid manufacture has been deleted. There is only one sulfuric acid plan in Kansas and atmospheric modeling methods have been used to demonstrate ambient air quality standards for sulfur dioxide are being met in the AQCR where the plant is located.

The nitrogen oxide emission standard applicable to nitric acid manufacture has been deleted. All AQCR's in Kansas are classified Priority III for nitrogen dioxide.

These changes constitute a proposed revision to the State of Kansas Implementation Plan, pursuant to § 51.8 of this chapter. This notice is issued to advise the public of the receipt of this proposed change and to request public comment. The Administrator's decision to approve or disapprove revisions to a plan is based on whether such revisions meet the requirements of section 110(a)(2)(A)(H) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

All comments should be addressed to the Regional Administrator, Environmental Protection Agency, Region VII, 1735 Baltimore, Kansas City, Missouri 64108. Only comments received by August 12, 1974 will be considered. Copies of the proposed revision to the State of Kansas Implementation Plan are available for public inspection during normal business hours at the office of EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108; the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C. 20460; and at the Kansas Department of Health, Forbes Air Force Base, Building 740, Topeka, Kansas 66620.

(42 U.S.C. 1857c-5)

Dated: July 2, 1974.

JEROME H. SVORE,
Regional Administrator.

[FR Doc.74-15784 Filed 7-10-74;8:45 am]

[40 CFR Part 52]

VIRGINIA

Proposed Revision to Implementation Plan

On May 24, 1974, the Commonwealth of Virginia submitted to the Administrator a proposed revision to the Virginia Implementation Plan for the attainment and maintenance of national ambient air quality standards. The proposal is simply to delete the existing preface to the State "Regulations for the Control and Abatement of Air Pollution."

The preface consists primarily of background information. It explains in general terms the State-Federal relation-

ship set up by the Clean Air Act (42 U.S.C. 1857 et seq.). The preface also discusses the powers given under state law to the State Air Pollution Control Board.

In addition, the preface includes a number of policy statements. One statement is that the Board will, in making regulations and issuing orders, take into consideration factors such as "the practicability, both scientific and economic" of achieving compliance. Another policy statement is that the Board will apply the regulations on an individual case basis to the extent necessary to:

1. Maintain ambient air quality standards
2. Prevent public nuisances
3. Prevent substantial degradation of air quality in regions where that quality is superior to national standards.

Virginia has submitted the proposed revision because experience has shown that the preface creates confusion about the very matters it is supposed to clarify. In addition, Virginia points out that the preface was never officially adopted by vote of the State Air Pollution Control Board.

Persons interested in the proposed revision might note that the section of the preface which requires that technical, social and economic factors be considered in applying the regulations, should not have received the unconditional Federal approval which was originally given to it. Various Courts of Appeals have considered similar provisions and have ordered the Administrator to withdraw his approval of them. Since provisions of this type remain in many state plans, including Virginia's by reason of its statute, the Administrator will soon propose a general amendment to 40 CFR Part 52 which will deal with the problem on a nationwide basis.

It should also be noted that equal protection problems may be presented by the section of the preface which requires that the regulation be applied on an individual case basis as necessary to maintain ambient air standards. Under that section a source might be excused from complying with regulations solely because earlier enforcement actions against identical sources had already worked to attain ambient air quality standards.

This proposed revision to the Virginia Implementation Plan received public advertisement and hearing in accordance with 40 CFR 51.4 with the following exceptions:

1. In some instances advertisements appeared in local newspapers less than a full thirty days prior to the public hearing.

2. Less than a full thirty day notice was given to states included with Virginia in interstate air quality control regions.

3. Notice to some local agencies was oral rather than written.

To cure any possible deficiencies Virginia has arranged to have further newspaper advertisements published in each of its regions. These ads announce an additional thirty day period for comment on the revision. Also copies of this notice are being mailed to all relevant local agencies and adjoining state agencies to advise them of the opportunity to submit comments. In accordance with the policy reflected in 40 CFR 51.4(e) the Administrator is being requested to approve these additional actions as completing compliance with 40 CFR 51.4(b)(1), (4) and (5).

The public is invited to submit comments on whether the above described proposed revision should be approved or disapproved as required by Section 110 of the Clean Air Act. Only comments received by August 12, 1974, will be considered. The Administrator's decision to approve or disapprove this proposed revision will be based on whether it meets the requirements of section 110(a)(2)(A)–(H) of the Act and EPA regulations in 40 CFR Part 51.

Copies of the preface deleted by the proposed revision are available for public inspection during normal business hours at the Offices of EPA, Region III, Curtis Building, 2nd Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania, 19106, and in the Office of the Virginia State Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, Virginia, 23219, and at the Freedom of Information Center, EPA, 401 M Street, SW., Washington, D.C. 20460. All comments should be addressed to the Director, Air & Water Programs Division, Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

(42 U.S.C.S. 1857c-5)

Dated: June 28, 1974.

A. R. MORRIS,
Acting Regional Administrator.

[FR Doc.74-15785 Filed 7-10-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19161; RM-1540 and 1823]

FM BROADCAST STATIONS; IOWA

Table of Assignments; Extension of Time for Comments and Reply Comments

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Anamosa and Iowa City, Iowa; Burlington, Iowa); 39 FR 20403.

1. On April 16, 1974, the Commission adopted a Memorandum Opinion and Order and notice of proposed rulemaking in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on May 2, 1974, 39 F.R. 15324. Comment and reply comment dates are presently July 5 and July 22, 1974, respectively.

2. On July 2, 1974, counsel for Richard A. Carroll, filed a request for extension of time in which to file comments and reply comments to and including July 22 and August 12, 1974, respectively. Counsel states that substantial work has been completed on the comments and on the extensive engineering studies which will accompany the comments but there are further engineering matters to be studied and this study cannot be completed to meet the presently scheduled deadline. Counsel adds that the other parties in this proceeding have been contacted and have consented to the extension of time.

3. We are of the view that the public interest would be served by extending the time in this proceeding. Accordingly, *it is ordered*, That the dates for filing comments and reply comments are extended to and including July 22 and August 12, 1974, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Adopted: July 3, 1974.

Released: July 5, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-15855 Filed 7-10-74;8:45 am]

[47 CFR Part 73]

[Docket No. 20065; RM-2224]

TELEVISION BROADCAST STATIONS; NEBRASKA

Table of Assignments; Extension of Time for Comments and Reply Comments

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Alliance, Hay Springs, and Scottsbluff, Nebraska); 39 FR 19230.

1. On May 23, 1974, the Commission adopted a notice of proposed rulemaking in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on May 31, 1974, 39 FR 19230. The dates for filing comments and reply comments are presently July 15, and August 5, 1974, respectively.

2. On June 18, 1974, Wyneco Communications, Inc., licensee of television Station KSTF(TV), Scottsbluff, Nebraska, requested that the time for filing comments and reply comments be extended to and including August 15 and September 5, 1974, respectively. It states that the additional time is necessary because of press of other important business and the fact that counsel principally concerned with this matter will be out of the office for an extended period of time. Counsel for proponent in this proceeding has consented to the grant of the requested extension.

3. We are of the view that the public interest would be served by granting the additional time. Accordingly, *it is ordered*, That the dates for filing comments and reply comments are extended to and including August 15 and September 5, 1974, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act

of 1934, as amended and § 0.281 of the Commission's rules.

Adopted: June 28, 1974.

Released: July 2, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-15854 Filed 7-10-74;8:45 am]

[47 CFR Part 76]

[Docket No. 20021]

CABLE TELEVISION

Franchise Duration Rules

In the matter of amendment of Part 76 of the Commission's rules and regulations relative to amending existing franchise duration rules—§ 76.31(a)(3) to lengthen maximum term and impose a minimum term; 39 FR 16484.

1. On April 17, 1974, the Commission released its Clarification of the Cable Television Rules and Notice of Proposed Rule Making and Inquiry (46 FCC 2d 175). Comments in the above-entitled matter were therein scheduled for June 7, 1974, and reply comments for June 21, 1974.

2. By order released May 3, 1974 (Mimeo 21423), an extension of time was granted herein, extending the time for comments to July 5, 1974 and reply comments to July 23, 1974.

3. On July 3, 1974, the Commission received a telephonic request from the New York State Cable Commission for a further extension of time in this proceeding—namely, until July 12, 1974, for the filing of Comments and until July 30 for Reply Comments. In support of this request, the New York State Cable Commission cites the press of other business, including the preparation of comments in numerous outstanding Commission rulemaking matters.

4. It appearing that good cause has been shown therefor, this request is granted and *it is hereby ordered* That the date for filing comments herein is extended to July 12, 1974 and the date for reply comments is extended to July 30, 1974.

5. This action is taken by the Chief, Cable Television Bureau pursuant to authority delegated in § 0.289 of the Commission's rules and regulations.

Adopted: July 3, 1974.

Released: July 5, 1974.

[SEAL] DAVID D. KINLEY,
Chief, Cable Television Bureau.

[FR Doc.74-15856 Filed 7-10-74;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 257]

ADVERTISING OF CHILDREN'S PREMIUMS ON TELEVISION

Proposed Guide

The Federal Trade Commission, pursuant to the Federal Trade Commission Act, 15 U.S.C. Sec. 41, et seq., and the provisions of Part I, Subpart A, §§ 1.5–1.6 of the Commission's procedures and rules of practice, 16 CFR 1.5–1.6, hereby serves notice that it is proposing an Industry Guide concerning television advertising of child-directed premiums and similar promotional devices.

The text of the proposed Guide is set forth below, immediately followed by explanatory material issued by the Commission. Also published herein is an analysis by the Commission's staff of the application of the Federal Trade Commission Act to television advertising of child-directed premiums.

§ 257.1 **The Guide.**

(a) In any television advertisement directed to an audience, the majority of which may reasonably be expected to be composed of children under twelve years of age, the advertiser should not promote a product or service by referring to an offer of a premium such as a prize, toy, game, or other promotional device having significant appeal for children under twelve years of age and unrelated to the merits of the product or service being promoted.

(b) This Guide applies not only to offers which represent the premium as free or at no additional cost, but to offers available upon payment of additional consideration. Similarly, this Guide applies when the consumer does not receive the premium itself with his purchase, but merely a box top or order blank which entitles him to send for the premium.

(c) "Premiums" and "other promotional devices" under this Guide should be broadly construed to cover services as well as products which are conditioned upon purchase of the advertised product or service. Also included within these terms would be the container of an advertised product where such container is reusable. For example, an advertisement referring to a game printed on the back panel of a box, or to toys which could be constructed from cut-out pieces of the box, is covered by this Guide. Contests, sweepstakes, and club memberships having appeal to children are included within the scope of "other promotional devices."

(Secs. 5, 6, 38 Stat. 719, as amended, 721; 15 U.S.C. 45, 46)

I. COMMISSION DISCUSSION OF PROPOSED GUIDE

The proposed Guide reflects the view that prohibition of the advertising on television directed to children of premiums and similar offers appears at the present time sufficient to avoid unfairness, and that prohibition of the practice of offering premiums does not appear necessary at this time. This is a choice of remedy which may be reconsidered if necessary in the future. However, the Commission wishes to call attention to the fact that the proposed Guide does not cover advertisements in media other than television. The Commission specifically invites comments as to whether other media should be included. Any comments directed at this point should provide specific reasons and, if available, concrete evidence bearing on the advisability of such broader coverage.

The Commission also wishes to make clear that, although the present proposed Guide applies only to advertising on television of premiums and similar promotional devices, the principles and considerations underlying the proposal announced here may also support other actions with respect to children's advertising. Thus, the limitation of the present proposal to the types of advertising specified herein should not be deemed to preclude other future activity by the Commission with respect to children's advertising.

II. STAFF STATEMENT ON THE APPLICATION OF THE FEDERAL TRADE COMMISSION ACT TO TELEVISION ADVERTISING OF CHILD-DIRECTED PREMIUMS

The Commission believes it to be useful to publish the following views of its staff on the application of the Federal Trade Commission Act to television advertising of child-directed premiums, and invites comments thereon.

A. DESCRIPTION OF PREMIUMS AND SIMILAR PROMOTIONAL DEVICES

1. *Premiums.* Although premium merchandising assumes many forms, as used in this statement, the term "premium" refers generally to an offer of merchandise or services which is conditioned upon the purchase of a product or the performance of some other act by the consumer. While wide variation exists within this general concept,[1] premium practices have come to be divided into certain basic categories. Thus, a premium may be "free" or it may be "self-liquidating," which latter term means that it is available only upon payment of a further consideration in addition to that paid for the primary product. Premiums conditioned upon purchase of a product may be: (1) distributed at point of purchase; (2) enclosed in or affixed to the package; or (3) distributed by mail upon submission of proof-of-purchase.[2] Those conditioned upon performance of an act by the consumer, such as visiting the advertiser's store (such premiums are called "traffic-builders") usually are distributed at the place of performance of such act.[3]

The purpose of a premium offer is to induce sales of the product or service upon purchase of which the premium offer is conditioned. By their inherent nature, premiums are a particularly strong form of sales promotion. One commentator has even taken the position that the merchandise incentive is more effective in motivating human beings

[1] For a glossary of premium terms used within the industry, see Incentive Marketing Facts, Aug. 1968 at 25–26.

[2] In another type of premium plan, coupons or trading stamps may be collected from a number of purchases and redeemed at redemption centers. The re-usable container is also a form of premium.

[3] This list of examples of types of premiums is not intended to be exhaustive. Although the types listed are the most common forms of consumer premium, other types may also exist.

than any other type of incentive known to the merchandising business.[4]

This view of premiums as a particularly effective form of consumer motivation is reflected in recommendations of their use in especially demanding situations, such as the meeting of strong competitive pressures or the offsetting of seasonal slumps in sales.[5] The purpose of using a premium under such circumstances as a problem-solving merchandising device is to produce an immediate and demonstrable increase in sales.[6] As one writer puts it, "The objective of the premium is to give the customer a reason for buying the product now." [7]

It has also been observed that because of their essentially "hard sell" nature, premiums received extensive use by businessmen during the Depression.[8]

The inherent strength of premiums as a form of product promotion arises from the very nature of the device itself. Because premiums by definition exert an appeal which is extrinsic to the merits of the product they are promoting, they can be used to attract purchasers who would not be attracted to the product on the basis of its merits alone.[9]

2. *Contests and sweepstakes.* Contests and sweepstakes, though not by strict definition forms of premium merchandising, involve such closely related uses of merchandise for promotional purposes that they are handled by the same organizations that specialize in running premium campaigns, and are usually included in discussions of premiums in treatises on advertising. The merchandise incentive in contests and sweepstakes takes the form of prizes. Generally speaking, in a contest, prizes are awarded on the basis of skill or elements other than chance, whereas in a sweepstakes, the consumer merely submits his name to be included in a drawing in which prizes are awarded on the basis of chance alone. Contests and sweepstakes differ from premium offers in that the former two promotional devices involve an element of gaming. In a broader sense, however, they are similar to premium offers, in that they promote the advertised product on the basis of factors other than the merits of the product itself.[10] Like premiums, contests and sweepstakes are strong sales promotion devices geared to stimulate immediate action [11] and to attract even people who might not otherwise buy the product.[12]

[4] Meredith, Effective Merchandising with Premiums 70 (1962).

[5] E. g., Kleppner, Advertising Procedure 494 (6th ed. 1973).

[6] Id.

[7] Dunn, Advertising: Its Role in Modern Marketing 535 (2d ed. 1969).

[8] Meredith, supra note 4, at 27.

[9] Dunn, supra note 7, at 535.

[10] Kintner, A Primer on the Law of Deceptive Practices 201 (1971).

[11] Dunn, supra note 7, at 537.

[12] Id. at 535.

B. EXTENT AND NATURE OF PRESENT TELEVISION ADVERTISING OF CHILD-DIRECTED PREMIUMS

Premiums and similar offers have historically received substantial emphasis in children's advertising. Their prominence among the devices used in television advertising to promote products to children is demonstrated by the issuance by the National Association of Broadcasters of a set of guidelines dealing specifically and exclusively with advertising of children's premiums and offers. These Advertising Guidelines for Children's Premiums and Offers, which became effective in March, 1972, place some limitations on the proportion of an advertisement which may be devoted to a premium offer, and on the manner of presentation of the premium offer within the advertisement.

However, while these guidelines do impose certain restrictions on the proportion of the advertisement which may be devoted to the premium offer, substantial emphasis on premium offers in children's advertising is possible within the bounds of the guides. For example, the NAB guidelines impose no limitation on the number or percentage of advertisements for any given product which may be allocated to promotion of premium offers, or on the types of products ("child" v. "adult" products) which may be promoted by child-directed premiums.

In addition, the guidelines state that the amount of time devoted to a premium or offer in any given advertisement "shall not exceed one-half of the commercial or twenty seconds, whichever is less in length." Practically speaking, the twenty-second limitation applies only to 60-second broadcast commercials. If an advertiser chooses to use 30-second commercials, he can devote half of the commercial to the premium and still be in full compliance with the guidelines.

Based on an examination of a considerable number of television commercials promoting children's premiums monitored since the NAB guidelines have been in effect, the Bureau of Consumer Protection staff has observed that many advertisers have been choosing this latter option. Of the commercials reviewed, the majority are the 30-second variety, in which approximately half of the commercial, almost always the second half, is devoted to the premium offer. The staff's examination of these commercials indicates that allocation of half of the advertisement to the premium offers allows substantial emphasis on the premium. While the group of commercials reviewed may not include every advertisement for a child-directed premium disseminated since the advent of the NAB guidelines, in the staff's view, the sample is sufficiently large to verify that child-directed premiums have received substantial emphasis in children's advertising, in terms of both number of advertisements containing premiums offers, and prominence of the premium offer in individual advertisements, since the guidelines have been in effect.

C. LEGAL BASIS FOR COMMISSION ACTION

The source of the Commission's authority to forbid television advertising of children's premiums is the unfairness doctrine, growing out of the Commission's statutory mandate under section 5 of the F.T.C. Act to halt "unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce." [13] It is well established that the unfairness concept is broad enough to permit the Commission to reach practices inimical to consumers even if the practices involve neither injury to competitors nor deception.[14]

The most frequently cited distillation of factors to which the Commission may look in determining the fairness or unfairness of a given trade practice appears in the so-called Cigarette Rule, and reads as follows: [15]

> (1) Whether the practice, without necessarily having been previously considered unlawful, offends public policy as it has been established by statutes, the common law, or otherwise—whether, in other words, it is within at least the penumbra of some common-law, statutory, or other established concept of unfairness; (2) whether it is immoral, unethical, oppressive or unscrupulous; (3) whether it causes substantial injury to consumers (or competitors or other businessmen).

While this formulation was cited with approval by the Supreme Court in the Sperry & Hutchinson case,[16] it does not represent a final or an exclusive enumeration of the ingredients that may make up a judgment of unfairness on the part of the Commission. Indeed, while pointing to the Cigarette Rule's attempt to abstract unfairness principles from prior Commission actions, the Supreme Court at the same time stressed the necessary imprecision of the concept and the flexibility with which the Commission must approach its task: [17]

> * * * (T)he Federal Trade Commission does not arrogate excessive power to itself if, in measuring a practice against the elusive, but congressionally mandated standard of unfairness, it, like a court of equity, considers public values beyond simply those enshrined in the letter or encompassed in the spirit of the antitrust laws.

These various factors intersect with a particular force when the practice under consideration is the advertising of pre-

[13] 15 U.S.C.A. Sec. 45 (1973).

[14] F.T.C. v. R. F. Keppel & Bro., Inc., 291 U.S. 304 (1934); F.T.C. v. Sperry and Hutchinson Co., 405 U.S. 233 (1972).

[15] Statement of Basis and Purpose of Trade Regulation Rule 408, Unfair or Deceptive Advertising or Labeling of Cigarettes in Relation to the Health Hazards of Smoking, 29 FR 8324, 8355 (1964).

[16] F.T.C. v. Sperry and Hutchinson Co., 405 U.S. 233, 244 (1972).

[17] Id.

miums to children. One of the public policies most deeply imbedded in the law is that children should be protected from their own inability to understand the significance and consequences of their acts. This policy represents a consistent theme running through most areas of the law, especially in those doctrines evolved to shield children from commercial exploitation. The special duties and liabilities of persons dealing with children in a commercial context have consistently been recognized by the Commission in its own decisions. The result of this legal consensus on the special protections that must be afforded children is a series of per se rules and presumptions in the law that have placed the status of children beyond factual dispute and given them a uniquely favored position.

That child-directed premiums on television offend this policy of special protection for children is evident from consideration of several factors. It is sufficient merely to consider the necessary effect of a premium offer on the particularly vulnerable audience to which it is addressed in order to demonstrate its unfairness. Beyond that, it should be noted that a considerable body of opinion existed in this country for many years that premiums were an unfair practice even when directed at adult consumers. Although these doubts were resolved largely (though not universally) in favor of permitting the use of premiums, the fact that premiums are now targeted directly at the young gives the arguments in favor of their restriction a new persuasiveness.

These factors (along with some subsidiary considerations) will be discussed in additional detail in the following sections.

1. *Children and the common law.*

The infant has always been a favorite of the law. From early times the common law has made exceptions to the ordinary rules of law to compensate for the mental immaturity of persons in the adolescent period of life. The infant has been given certain special rights and privileges, and at the same time has had imposed upon him certain disabilities, all intended to afford him special protection.[18]

Children's special position before the law has been established in numerous ways, although space will permit the elaboration of only a few examples here. The incapacities of children that have given rise to this approach have been verified by centuries of observation and experience so that while the details of the various legal doctrines favoring children have sometimes been questioned, the core concept has remained remarkably constant. This basic concept has been placed beyond the range of factual controversy; at least with regard to certain practices, the disabilities of children and the need for special rules to deal with those disabilities have been established as a matter of law.

In criminal law, for example, Blackstone's expression of the general principle at work remains perfectly valid today: "Infancy is a defect of the understanding, and infants under the age of discretion ought not to be punished by any criminal prosecution whatever." [19] The common law put this principle into practice by setting up a conclusive presumption that a child under the age of seven was absolutely incapable of committing a crime, having neither the ability to form a criminal intent nor the ability to be deterred by punishment.[20] Between the ages of seven and 14, the child was given the benefit of a rebuttable presumption of incapacity; that presumption could only be overcome by "the strongest and most positive evidence." [21] Above the age of 14, the common law presumed the child to be just as capable of crime as an adult.[22] About one-third of American jurisdictions have enacted statutes on the subject, with the universal effect of raising the age below which criminal incapacity was conclusively presumed. In New York and New Jersey, for example, the age of absolute incapacity was raised to 16.[23] The practical significance of the law relating to criminal incapacity has been greatly reduced, however, by the creation of statutory juvenile courts in every American jurisdiction, which in turn represent yet another recognition of the need for special treatment by withdrawing children from the ordinary criminal process in most cases until the age of 18.[24]

The status of children in the law of negligence provides a closer analogy to the advertising situation in the sense that emphasis there is more on protecting the child and less upon his culpability. There is virtually universal agreement that a child cannot be held to an adult standard of care, but must instead conform to the standard of "a reasonable person of like age, intelligence, and experience under like circumstances." [25] Since children are more likely to suffer injury than to inflict it on others, the greatest practical application of this standard is to the child's capacity for contributory negligence. While some American jurisdictions observe a conclusive presumption of incapacity only for children in or below the "creeping or toddling stage of development," [26] others follow an approach (called the "Illinois rule") that mirrors the common law criminal rule: a conclusive presumption of incapacity under the age of seven, a rebuttable presumption of incapacity between 7 and 14, and a rebuttable presumption of capacity above 14.[27]

It is important to emphasize that the child's diminished capacity for contributory negligence exacts, in effect, a stricter standard of liability from the adult who may cause him injury; it has been held, for example, that an adult may be required to realize the child's inability to appreciate danger.[28] This higher standard of care is particularly apparent in the attractive nuisance doctrine, which holds a landowner who permits a dangerous condition to exist on his land liable for injuries the condition causes to trespassing children when the ordinary undiscovered trespasser, of course, would have no claim.[29]

For purposes of the present discussion, however, the most instructive area of the law is that relating to children's contractual obligations, since the purpose of that set of legal rules is the same as the Commission's in this area: to prevent the commercial exploitation of children by adults. The basic rule is that any contractual obligation entered into by a child before he reaches his 21st birthday is voidable at his option.[30] The child's right to avoid his contracts has been described as "an absolute and paramount right, superior to all equities of all other persons;" [31] it makes no difference whether the other party is aware that he is dealing with a child, or whether the other party suffers hardship as a result of the avoidance of the contract.[32] The shorthand expression of the principle is that one deals with an infant at one's peril.[33]

The policy underpinnings of the voidability of children's contracts are the complementary convictions that children lack the judgment and experience to act in their own best interests or to protect themselves against adults seeking to take advantage of them. "This positive inhibition is the way of the law to protect infants against their own lack of discretion and against the snares of designing persons." In re O'Leary's Estate, 352 Pa. 254, 42 A.2d 624, 625 (1945). "The right of the infant to avoid his contracts is one conferred by law for his protection against his own improvidence and the de-

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[18] 5 Vernier, American Family Law 3 (1938).

[19] Blackstone, IV Blk. Comm. 20, 22, quoted in 1 Burdick, The Law of Crime 201 (1946).

[20] LaFave and Scott, Criminal Law 352 (1972). See also 43 C.J.S. Infants Sec. 96 (1945); Bassiouni, Criminal Law and its Processes 86–87 (1969); Woodbridge, "Physical and Mental Infancy in the Criminal Law," 87 U.Pa.L.Rev. 426 (1939).

[21] 1 Burdick, supra note 19, at 205–206.

[22] 43 C.J.S. Infants Sec. 96 (1945); 21 Am. Jur.2d Criminal Law Sec. 27 (1965).

[23] 43 C.J.S. Infants Sec. 96 (1945).

[24] LaFave, supra note 20, at 354.

[25] Restatement (Second) of Torts Sec. 283A (1965). Cf. Prosser, Law of Torts 154–157 (1971).

[26] 57 Am. Jur. 2d Negligence Sec. 363 (1971).

[27] Annot., 77 A.L.R. 2d 908, 920 (1961).

[28] *Id.* at note 7. See also Le-Doux v. Martinez, 57 N.M. 86, 254 P. 2d 685 (1953).

[29] Prosser, Law of Torts Sec. 59 (1971); Harper and James, The Law of Torts Sec. 27.5 (1956).

[30] 43 C.J.S. Infants Sec. 71 (1945). See generally 2 Williston on Contracts, Sec. 222 et seq. (3d ed. Jaeger 1959). The idea that children should be protected against commercial exploitation is of considerable antiquity, though the sanctions used to enforce the policy have been mitigated a good deal. Under the Code of Hammurabi (circa 2250 B.C.), for example, buying or receiving on deposit any thing from a minor without power of attorney or consent of elders was a crime punishable by death. Woodbridge, supra note 22, at 428.

[31] Ware v. Mobley, 190 Ga. 249, 9 S.E.2d 67, 69 (1940). See also Rotondo v. Kay Jewelry Co., 84 R.I. 292, 123 A.2d 404 (1956).

[32] 43 C.J.S. Infants Sec. 71 (1945).

[33] Pollock v. Industrial Accident Commission, 5 Cal.2d 205, 54 P.2d 695 (1936).

signs of others." Burnand v. Irigoyen, 30 Cal.2d 861, 186 P.2d 417, 420 (1947). "Because the law expects young people to be imposed upon, it has given them the privilege of avoiding their contracts." Navin, "The Contracts of Minors Viewed From the Perspective of Fair Exchange," 50 N.C. L. Rev. 517 (1972). "The endeavor of the courts has been to prevent designing adults from overreaching infants by taking advantage of their lack of experience and judgment and inducing them to enter into contracts clearly to their disadvantage." Worman Motor Co. v. Hill, 54 Ariz. 227, 94 P.2d 865, 867 (1939). The precise ways in which premiums fit within the description of the commercial artifices against which the contract rules were designed to guard will be discussed shortly.

The methods by which courts have set about implementing this policy of protecting the contractual interests of minors deserve comment as well, since they are also relevant to the proposed approach to child-directed premiums. The felt need to shield children against exploitation was so strong that the courts created a set of ancillary per se rules to insure that the policy of voidability would be vindicated even at the price of sacrificing individualized treatment in specific instances. Particularly, no distinctions were recognized for the individual abilities or maturity of the child, so long as he met the strict age requirement of not having attained majority.[34] Any other approach would have pushed the courts into the morass of having to determine the precise intellectual powers of each child who sought to escape liability and would have sapped the deterrent strength of the rule.

A similar stance was taken with respect to the complexity or simplicity of the individual contract under consideration. The baseline rule is that all contracts are voidable, regardless of their subject matter or their comprehensibility.[35] There is no such thing as a contract that a child is competent to make.

The only exceptions were not based on the assumption that a given contract might fall within even the diminished abilities of a child but rather on other considerations. The major exception, for example, is that the child is liable for the reasonable value of "necessaries" (food, shelter, educational services) that may be furnished him, bottomed on quasi-contractual notions rather than on faith in the child's autonomous judgment.[36]

The strength of the conviction that a per se approach is necessary and appropriate in this area can be seen in two additional rules relating to children's obligations: first, that a child could, upon disaffirmation of the contract, recapture property he had sold from an innocent third-party purchaser who had bought the property from the original purchaser with no inkling that it had come from an infant,[37] and second (in many jurisdictions) that even the child's misrepresentation of his age left intact his right to disaffirm against someone who had thereby been deceived as to the child's true age.[38] This subordination of the interests of innocent parties to the policy of protecting the child is eloquent testimony to the seriousness with which the policy is taken.

Finally, it is instructive to note that the common law rule took no account of the fact that the child's parent might have approved the contract.[39] Despite the considerable deference rendered to parental control in other areas, in the commercial context the courts have been unwilling to accept parental supervision as a substitute for a direct legal control on children's contractual undertakings. This principle finds a parallel in Commission law in the cases dealing with deceptive first contacts followed by arguably nondeceptive representations.[40] Just as the Commission and the courts have refused to depend upon later disclosures to neutralize the effect of the initial deception, the common law evidently chose not to rely even upon parental guidance to legitimize a contract that would otherwise be voidable.[41]

2. *Children and the Commission.* The Commission and the courts reviewing its actions have long recognized that children comprise a distinct class of consumers who are in need of special treatment. It is well settled that enterprises dealing with children are held to a particularly stringent standard of conduct under Section 5. The genesis of this approach appears in the Supreme Court's opinion in F.T.C. v. R. F. Keppel & Bro., Inc., 291 U.S. 304 (1934), in which the Court upheld the Commission's prohibition of selling penny candy to children by a method that amounted to gambling. The Court laid heavy stress on children's inability to make an intelligent decision on the advisability of entering into such a transaction:

> * * * (T)he method of competition adopted by respondent induces children, too young to be capable of exercising an intelligent judgment of the transaction, to purchase an article less desirable in point of quality or quantity than that offered at a comparable price in the straight goods package * * * (291 U.S. 304, 309)
>
> * * * (H)ere the competitive method is shown to exploit consumers, children who are unable to protect themselves.
>
> * * * It would seem a gross perversion of the normal meaning of the word * * * to hold that the method is not "unfair." (Id., at 313)

The theme of special safeguards for children has appeared on numerous other occasions in the Commission's enforcement of section 5. In Wilson Chemical Co., Inc., 64 F.T.C. 168 (1964), the respondent had used a series of misleading and deceptive advertisements to recruit children and adults to sell its salve and thereafter, through a system of threatening and deceptive collection letters, coerced payment for the salve from the persons who had answered the advertisements. In discussing the respondent's dunning letters, the Commission stated: "They are strong letters to send to adults. Their coercive nature is increased when it is considered that in the majority of cases the recipients of these letters are probably children." 64 F.T.C. 168, 183. Similar principles guided an administrative law judge in his recent initial decision that a toy and hobby craft manufacturer had used deceptively oversized packaging in marketing its products: "* * * (C)hildren play a significant role in purchasing or in influencing an adult to purchase, respondents' products. This, too, commends a higher standard of care than that espoused by respondents." Avalon Industries, Inc., Docket No. 8925 (filed April 3, 1974). (No

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[34] Williston, supra note 30, at Sec. 224; Ex Parte McFerren, 184 Ala. 223, 63 S. 159 (1913); McCarthy v. Carter, 49 Ill. 53, 95 Am. Dec. 572 (1868). In most American jurisdictions, the age of majority is 21, a derivation from English common law whose origin was apparently tied to arms bearing and horsemanship abilities rather than understanding. Roman law conferred majority at age 14, looking specifically to the age at which a youth acquired understanding and judgment as to legal acts, particularly those affecting property rights. James, "The Age of Majority," 4 Am. J. Legal Hist. 22 (1960). Although recommendations to lower the age of majority to 18 have been fairly common in recent years, no proposal has come to the staff's attention to lower the age of absolute incapacity below the age of 14. Navin, "The Contracts of Minors Viewed From the Perspective of Fair Exchange," 50 N.C. L. Rev. 517 (1972). For a modern British view, see Downey, "Report of the Committee on the Age of Majority," 31 Modern L. Rev. 429 (1968).

[35] Cf. Williston, supra note 30, at Sec. 228. Even executed purchases and sales are voidable, and upon avoidance the child must return the consideration only if he still has it. Quality Motors Inc. v. Hays, 216 Ark. 264, 225 S.W.2d 326 (1949). Courts have however, sometimes varied the basic rule when particular hardship would have resulted. Calamari and Perillo, The Law of Contracts Sec. 126 (1970).

[36] Williston, supra note 30, at Sec. 240.

[37] Id. at Sec. 233; Annot., 16 A.L.R.2d 1416 (1951). The Uniform Sales Act has, however, altered the common law rule.

[38] Sternlieb v. Normandie Nat. Securities Corp., 263 N.Y. 245, 188 N.E. 726 (1934). Doenges-Long Motors, Inc. v. Gillen, 138 Colo. 31, 328 P.2d 1077 (1958); Annot., 29 A.L.R.3d 1264 (1970).

[39] Bombardier v. Goodrich, 94 Vt. 208, 110 A. 11 (1920); Hines v. Cheshire, 36 Wash.2d 467, 219 P.2d 100 (1950); Kaufman v. American Youth Hostels, 174 N.Y.S.2d 580, 13 Misc. 2d 8 (1957); Schmidgall v. Engelke, 224 N.E. 2d 590 (Ill. App. 1967); 43 C.J.S. Infants Sec. 71 (1945).

[40] Carter Products v. F.T.C., 186 F. 2d 821, 824 (7th Cir. 1951). Cf. F.T.C. v. Standard Education Society, 302 U.S. 112, 115 (1937); Progress Tailoring Co. v. F.T.C., 153 F. 2d 103, 104, 105 (7th Cir. 1946).

[41] In the premium situation, however, the staff believes that parental influence can have a role that makes action against the practice of using child-directed premiums (as distinct from their advertising on television) unnecessary at this time. Advertising, particularly on television, is able to reach children directly, often in the absence of parental supervision. By the time parental influence comes into play, the advertising already has had its critical impact on the child. On the other hand, parents frequently accompany their young children in shopping situations. If the child is then exposed to a premium offer printed on a package, the parent has the opportunity immediately to offset the impact of the offer by explaining the relevant considerations to the child. Moreover, the parent usually also has the option of not bringing the child to a store where he will be exposed to such offers.

appeal was taken from this initial decision.)

Special standards are no less applicable to advertising with a special impact on children than to other sorts of trade practices having such impact. In the area of toy advertising, for example, the Commission adopted Conclusion II of the hearing examiner in Ideal Toy Corporation, 64 F.T.C. 297 (1964), incorporating the principle that the age and lack of experience of children are to be taken into account in determining whether advertising addressed to them is unfair or deceptive. The conclusion stated:

False, misleading and deceptive advertising claims beamed at children tend to exploit unfairly a consumer group unqualified by age or experience to anticipate or appreciate the possibility that representations may be exaggerated or untrue. (64 F.T.C. 297, 310)[42]

An additional source of special standards of conduct for advertisers in this situation is the sheer volume of television advertising to children, including other types of appeals as well as premium offers. The ability to affect consumer behavior conferred by heavy television advertising imposes upon the advertiser a particular duty to refrain from even doubtful methods. As the Commission pointed out with reference to cigarette advertising: [43]

Modern mass-media advertising on the scale conducted by the cigarette industry is a form of power in the marketplace—power over the buying choice of consumers. It is lawful power. But just as the possession of lawfully-acquired market or monopoly power in the antitrust sense may nevertheless place a firm under a special duty of fair dealing towards its competitors, an advertiser's possession of great power vis-a-vis consumers may place him under a special duty of fair dealing toward them, especially where the advertised product is dangerous to life and health.

While a premium of course need not present any health hazard, the basic principle, deriving from the amount of advertising, remains the same in both cases.

3. *Other Regulatory Approaches.* Children's advertising codes promulgated by other countries as well as by industry groups in this country have concentrated on television advertising, out of a common recognition of that medium's unique strength to influence its young viewers. While none of these codes takes the precise step here announced, they all acknowledge the same policies and goals that have moved both the common law and the Commission: that children present special considerations that demand especially high standards of advertising conduct.

A recent study of children's television practices in a number of the Western European countries revealed that (except in the case of one commercial network in Great Britain) most children's advertising is simply not permitted at all: "No advertiser is allowed to sponsor a children's program, there are no commercials during children's programs on any national network except for England's ITV, and none of these countries except Italy allows the hosts or hostesses on children's television to make any type of commercial for use on television." [44]

Canada recently moved toward joining this group when the Canadian Radio-Television Commission instructed the Canadian Broadcast Corporation in April 1974, to end all advertising to children. In addition, legislation is now pending in the Canadian House of Commons to forbid all children's advertising on Canada's commercial networks as well. British ITV, while allowing children's advertising, nevertheless operates under an advertising code that proscribes advertising that "takes advantage of the natural credulity and sense of loyalty of children." [45]

In this country, the ANA and the NAB have both acknowledged that children are not equipped to evaluate advertising as adults are and must be treated under special standards. The ANA guidelines read, in pertinent part: "(C)hildren are a unique audience as they are in their most formative development period, may be more easily influenced than are adults, and because of their limited experience are not fully equipped to make comparative judgments." The NAB, in both its Television Code as well as its Children's Television Advertising Statement of Principles, alludes to the special considerations which apply whenever advertising or program material is aimed at a child audience. The NAB's Advertising Guidelines for Children's Premiums and Offers have already been discussed in B of this statement.

4. *Harmful effect of children's premiums.* A consideration of the purpose and likely effect of a televised premium offer on the buying decision of a child will make readily apparent why such a tactic transgresses the public policy of special protection for children, especially against commercial exploitation.

(a) The very purpose of the premium advertisement is to focus the child's attention on a factor that is almost always completely irrelevant to merits of the principal product, thereby greatly increasing the likelihood that the child's response to the ad will reflect confusion. This irrelevant consideration is superimposed on a transaction that, in the staff's view, is already at the margin of public policy acceptability, especially when it is the younger child who is the center of the seller's merchandising campaign.[46] The premium offered characteristically bears no relation to the criteria which would guide choice if the product stood alone. Instead, the premium's main purpose is to distract the buyer's attention from those attributes and to motivate purchase not on the merits of the product but in order to obtain the premium.[47] The efficacy of the premium selling technique in achieving this goal has already been noted (see text supra at [5]). The National Association of Broadcasters' premium guidelines acknowledge the dangers inherent in the premium device by attempting to limit their use. The staff is of the view, however that the limitations imposed by these guidelines do not adequately meet the issues posed by television advertising of premiums to children.[48]

(b) Even without the premium, the child who makes or participates in a purchasing decision already faces a taxing and difficult task. The injection of a premium into a buying decision cannot help but multiply the difficulties of choice. The child then has not only to contend with the various elements of the original product, but also the premium and its attractiveness, novelty, utility or lack thereof. He must make a comparison with other products that either lack premiums or are accompanied by different premiums with different sets of attributes. Merely by adding another group of factors that compete with those already demanding the child's attention, the premium must inevitably increase the likelihood of confusion and of the purchase of an inferior product. This is especially true since children, lacking incomes of their own, must also lack an ordered scale of economic values.

(c) A primary argument used to justify the advertising of products directly to children is that exposure to advertising offers the child indispensable training in making the sorts of consumption decisions that he will face for the rest of his life.[49] The necessary implication of such

[42] See also the statement of Chairman Engman, dissenting in part, in ITT Continental Baking Co., Inc., Docket No. 8860 (opinion issued Oct. 19, 1973).

[43] Statement of Basis and Purpose of Trade Regulation Rule 408, Unfair or Deceptive Advertising or Labeling of Cigarettes in Relation to the Health Hazards of Smoking, 29 FR 8324, 8357 (1964).

[44] Fleiss and Ambrosino, An International Comparison of Children's Television Programming 11 (1971) (emphasis in original). The countries covered by the statement include Austria, Denmark, Finland, France, Great Britain, Ireland, Italy, The Netherlands, Norway, Sweden, Switzerland and West Germany.

[45] Id. at 154.

[46] It should be kept in mind that even the common law was so hostile to involvement of the child in commercial dealings that it permitted him to disaffirm and thus undo even executed transactions, including an ordinary retail sale.

[47] This statement should not be construed to mean that the advertising on the merits of the product being promoted, whether to children or to some other audience, automatically satisfies the requirements of Section 5. The point here addressed is that in the child-directed premium situation, advertising diverting attention from the merits may well be unfair.

[48] Although the Keppel case involved gambling, considered a vice in and of itself, the Supreme Court also relied on the point that the selling device distracted attention from the (concededly inferior) merits of the respondent's candy.

[49] "We suggest that the social justification for advertising to children arises from the process of consumer socialization—experience as a purchaser—both in its own right and as a training ground for other types of decisionmaking. * * * We believe the discussion children have with their parents about product purchases as a result of exposure to advertising, as well as experience with actual purchases, contributes to maturation. Involved in this long and painful process (but no more so than other maturation processes) is the learning of the proper criteria for use in evaluating products, the value of money spent now for several small items versus the purchase of a larger item later. * * *" (Emphasis supplied.) Dr. Seymour Banks, quoted in The Case for Advertising—Highlights of the industry presentation to the Federal Trade Commission 52 (Moskin ed. 1973).

a claim, however, is that the advertising to which the child is exposed will help guide him to the proper criteria that an informed consumer would employ in arriving at a well-considered purchasing decision; surely, no one would seriously contend that a child should be fair game for deceptive or unfair advertising simply so that he might learn from his mistakes. The premium offer can be of little value in performing this socialization task, however, since it channels the child's attention away from those product features which would ordinarily command the attention of most adult consumers. Thus premiums do not come within the rationale for children's advertising proffered by those who publicly argue in support of such advertising.

In light of the previously described policies toward commercial dealings with children, the conclusion is justified that this entire class of advertising in such a powerful medium as television is unfair per se even if it cannot be said with certainty that every premium advertisement produces a particular result in every child subjected to its influences.[50] The likelihood of an unfair result here goes well beyond the applicable legal standard in this area: that the advertising in question have the "capacity or tendency" to produce an unfair impact on its audience. "It is now axiomatic that mere capacity or tendency to mislead is enough to make out a Section 5 violation and that the law does not require proof of actual deception or injury."[51] The "capacity or tendency" test has been ineradicably established by numerous cases involving the Commission's power to regulate deceptive advertising,[52] and it is no less appropriate where the advertising under consideration is unfair without necessarily fitting traditional definitions of deception.

It should be stressed that the view that the advertising of premiums can be an unfair trade practice is not a recent invention. Through the first 40 years of this century, state legislatures made persistent attempts to forbid the giving of premiums even to adults through statutes that often banned both merchandise premiums and the giving of trading stamps.[53] The rationale behind this broadly-based effort parallels the reasons for this guide, except of course that the statutes there involved outlawed premiums directed at any audience and not simply at children. One commentator explained the legislatures' actions on the following grounds: [54] Premiums represent a lure to "indiscriminate and unnecessary purchasing"; [55] they distract consumers from the quality of the principal goods sold; they obscure prices and hinder price comparisons; and they offer an escape from price competition so that the most successful merchant is not the most efficient but the most adroit in the offering of premiums.

Despite a trio of early Supreme Court decisions upholding state antipremium legislation as rationally related to the public welfare and therefore a valid exercise of the police power,[56] most of the statutes eventually succumbed to state substantive due process attacks in the state courts. The findings of invalidity stemmed at least in part from the courts' opinion that the laws were paternalistic excesses on behalf of consumers who were well able to protect their own interests.[57] The demise of the antipremium laws was not universal, however; many premiums are still illegal in Kansas [58] and a number of other states restrict or forbid premiums in connection with certain varieties of transactions.[59]

The essential point is not, however, that few of the antipremium statutes have survived until the present day but rather that for many years, a substantial body of public opinion regarded premiums as pernicious if offered to any class of consumers, let alone children. Accusations of paternalism, of course, lose their force when it is acknowledged that the regulation in question is to be applied only to those young consumers who in fact cannot make purchasing decisions on their own. Moreover, the struggle over premiums largely predated the creation of an enormous advertising apparatus expressly aimed at selling to children, and it may reasonably be supposed that many of the judges who resolved their doubts in favor of permitting premiums addressed to adults would have taken a different approach had the practice under attack been confined to children. In any case, the fact that the practice was seriously suspect when applied to adults lends force to the view that it should not be permitted where children are concerned. As the Commission has stated in connection with cigarette advertising: [60]

> * * * (T)hroughout the law in general and under section 5 of the Federal Trade Commission Act in particular, it has been recognized that minors constitute an especially vulnerable and susceptible class requiring special protection from business practices that would not be unlawful if they only involved adults. Accordingly, a marketing practice, directed in a substantial part toward minors, that interferes substantially and unjustifiably with their freedom of buying choice is an unfair or deceptive act or practice even if it is not especially pernicious as to adults.

III. Comments on Proposed Guide and Staff Statement

Written comments on the foregoing proposed Guide and staff statement may be sent to Secretary, Federal Trade Commission, Pennsylvania Avenue and Sixth Streets, NW, Washington, D.C. 20580. All comments will be entered on the public record at the above address and will be available for inspection in Room 130 at the above-mentioned address during normal business hours. Comments may be submitted no later than September 9, 1974.

Issued: July 11, 1974.

By direction of the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.74–15770 Filed 7–10–74;8:45 am]

[50] It is well established, of course, that the Commission can evaluate advertising without resort to extrinsic evidence of the advertising's meaning or impact, such as surveys of consumers. ITT Continental Baking Company, Inc., Dkt. No. 8860 at 10 (opinion issued Oct. 19, 1973), and cases cited therein. The Commission's expertise in advertising matters equips it to make its own judgments in such matters, although extrinsic material may of course be considered.

[51] ITT Continental Baking Company, Inc., Dkt. No. 8860 at 10 (Opinion issued Oct. 19, 1973).

[52] F. T. C. v. Raladam Co., 316 U.S. 149, 151 (1942); Charles of the Ritz Distributing Co. v. F. T. C., 143 F. 2d 676, 680 (2d Cir. 1944); Vacu-Matic Carburetor Co. v. F. T. C., 157 F. 2d 711, 713 (7th Cir. 1946).

[53] See City of Denver v. Frueauff, 39 Colo. 20, 88 P. 389 (1907) for a typical statute.

[54] Wolff, "Sales Promotion by Premiums as a Competitive Practice," 40 Colum. L. Rev. 1174 (1940).

[55] Id. at 1178.

[56] Rast v. Van Deman, 240 U.S. 342 (1916); Tanner v. Little, 240 U.S. 369 (1916); Pitney v. Washington, 240 U.S. 387 (1916).

[57] See, e.g., State v. Wilson, 101 Kan. 789, 799, 168 P. 679, 683 (1917). The Kansas Supreme Court did, however, go on to uphold the statute in question.

[58] Cushenberry v. Shanahan, 190 Kan. 720, 378 P. 2d 66 (1963).

[59] See compilation in Incentive Marketing Facts, Vol. 130, No. 5A (1970) at 324.

[60] Statement of Basis and Purpose of Trade Regulation Rule 408, Unfair or Deceptive Advertising or Labeling of Cigarettes in Relation to the Health Hazards of Smoking, 29 Fed. Reg. 8324, 8358 (1964). Cf. Ginsberg v. New York, 390 U.S. 629 (1968) (different obscenity standards for children and adults).

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 900]

[Docket No. AO377]

RYEGRASS SEED GROWN IN OREGON

Decision on a Proposed Marketing Agreement and Order

Correction

In FR Doc. 74–15373, appearing at page 24656, in the issue of Friday, July 5, 1974, the marketing order which should have been published immediately after the signature on page 24663 was inadvertently omitted. The marketing order is published in full below.

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 Ryegrass.

"Ryegrass" means ryegrass seed of those annual and perennial grasses identified as the species of the Genus Lolium grown in the production area.

§ ____.3 Committee.

"Committee" means the Ryegrass 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.

§ ____.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—Linn County, Oregon.

(b) District 2—Benton and Lane Counties, Oregon.

(c) District 3—All other counties in Oregon.

§ ____.6 Foundation Seed, Registered Seed or Certified Seed.

Foundation Seed, Registered Seed or Certified Seed means the class of ryegrass seed (annual or perennial) 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 ryegrass 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 ryegrass from the grower thereof, or to sell, consign, ship or transport (except as a common or contract carrier of ryegrass owned by another person) or acquire ryegrass, whether or not of own production, except that (a) the shipment or transportation within the production area of ryegrass by the grower thereof for cleaning or storage therein shall not be construed as "handling", (b) the sale, shipment, or transportation of ryegrass 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 ryegrass 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 ryegrass: Provided, however, That with respect to the acquisition of a grower's ryegrass by a person other than a registered handler, the grower shall be the handler of such ryegrass. "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.

§ ____.11 Production area.

"Production area" means the State of Oregon.

§ ____.12 Proprietary Variety.

"Proprietary Variety" means any variety of ryegrass (annual or perennial) 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 U.S. 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 ryegrass in pounds.

§ ____.15 through .19. Additional definitions as required.

RYEGRASS ADMINISTRATIVE COMMITTEE

§ ____.20 Establishment and membership.

(a) There is hereby established a Ryegrass Administrative Committee consisting of nine members, each of whom shall have an alternate. Seven 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, four of them and each of their alternates shall be producers of ryegrass in District 1, two of them and each of their alternates in District 2, and one member and his alternate in District 3. Two 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 handler member or alternate handler member only. For purposes of committee membership a grower is a handler if the quantity of ryegrass 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 ryegrass 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 the 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 two grower members and one handler member shall be the initial crop year, the term of office for two 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 shall be the initial crop year plus the two succeeding crop years. Successor members of the Committee shall serve for terms of 3 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 disquali-

fication 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) to serve in the member's place if such alternate is not serving in the place of another member.

§ ——.27 Procedure.

(a) Six 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 five 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. Seven 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 provision 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 statement 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 ryegrass;

(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 ryegrass. 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 ryegrass (separately for annual and perennial ryegrass) during the crop year, including:

(a) Carryin: The estimated quantity of ryegrass in all hands (growers, handlers, brokers, and wholesalers) at the beginning (July 1) of the crop year;

(b) Production: The estimated ryegrass 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 ryegrass; 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 ryegrass (hereinafter referred to as the "Total Desirable Quantity") (separately for annual and perennial) 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 Commitee's recommendation or other available information, that establishing, limiting, or increasing the quantity of ryegrass (annual or perennial) 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 each for such crop year, which all handlers may acquire in the crop year. The Committee shall equitably apportion such quantity of annual ryegrass and such quantity of perennial ryegrass 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 ryegrass (annual or perennial or both) shall register with the Committee and furnish to it on forms prescribed by the Committee, a report of the number of pounds of such ryegrass produced by him and sold by him, or on his behalf, during each of the crop years 1969 through 1972, broken down by annual and perennial varieties of ryegrass (including proprietary varities of each), 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 for each kind of ryegrass—annual and perennial in accordance with: (1) The average crop year pounds of ryegrass, of the particular kinds produced and sold by him, or on his behalf, during the four crop years 1969 through 1972 if he had production and sales in each of the four crop years; (2) the average crop year pounds of ryegrass of a particular kind produced and sold by him or on his behalf, during any three of the crop years 1969 through 1972 if he had production and sales in only three of the crop years; (3) the average crop year pounds of ryegrass of a particular kind produced and sold by him or on his behalf, during any two of the crop years 1969 through 1972 if he had production and sales in only two of the crop years; (4) the crop year pounds of ryegrass of a particular kind produced and sold by him, or on his behalf, during any one of the crop years 1969 through 1972 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 according to the applicable one of the following procedures: (1) The allocation bases computed on a four-crop year basis shall be adjusted by: (i) Adding the grower's preceding crop year's sales of ryegrass of the particular kind to his four crop year's total sales of such ryegrass used in computing his existing allocation base; (ii) subtracting the smallest quantity of sales for a crop year recorded as the sales of such ryegrass during such four-crop years; (iii) recalculating a new four-crop year simple average which shall be the new allocation base. (2) Allocation bases computed on a less than four-crop year basis shall be adjusted by adding the grower's preceding crop year's sales of ryegrass of the particular kind to the total number of pounds used in computing his preceding allocation base and dividing by the number of years of sales of such ryegrass.

(d) The Committee may provide for adjustment of a grower's allocation based upon a showing that such grower's sales in the base period, as provided in § —.41 (c), were not representative due to conditions such as: adverse weather, insects, disease, and fire.

(e) A condition for the continuing validity of an allocation base is production and sale of ryegrass thereunder. If no bona fide effort has been made in reference to the original allocation base, to produce and sell ryegrass thereunder during any 3 consecutive crop years, such allocation base shall be declared invalid due to lack of use and canceled at the end of such third consecutive year of nonproduction and sale.

(f) 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 ryegrass; (2) desires of new producers to gain entry, and producers 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.

(g) (1) Notwithstanding the foregoing provisions of paragraph (f) of this section any increase in the quantity of ryegrass provided for by this order shall be no more than 5 percent of the total of all allocation bases encompassed by this order (separately for annual and perennial) during the previous crop year; Provided, that new producers, 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 producers 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.

(h) 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.

(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 ryegrass production.

(j) Each allocation base shall be for ryegrass of a particular kind (annual or perennial).

(k) Growers' allocation bases may be transferred to other growers as authorized by regulations recommended by the Committee and approved 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 15, the Committee shall apportion to each grower who has an allocation base for ryegrass of a particular kind an allotment of ryegrass of such kind which handlers may acquire from each grower during the crop year. Each such allotment shall be computed by dividing the total desirable quantity of ryegrass of such kind established pursuant to § ——.36 by the sum of the allocation bases of ryegrass of such kind for all producers and multiplying the grower's allocation base by the resulting percentage. The result shall be the grower's allotment of ryegrass of such kind. Except as otherwise provided, no handler may acquire any quantity of ryegrass of a particular kind (including ryegrass of his own production) which would result in all handlers having acquired a greater quantity of ryegrass with respect to such grower than the grower's applicable allotment. Each allotment shall be expressed in pounds of cleaned ryegrass.

(b) The Committee with the approval of the Secretary may establish by regulation such means of certification or identification with respect to allotments of growers as may be required to effectuate the purposes of any regulation issued under this order.

(c) Growers' allotments shall be nontransferable except in conjunction with the transfer of an allocation base.

§ ____.43 **Ryegrass harvested prior to effective date of this order.**

(a) Any person in the possession of ryegrass 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 ryegrass so designated, and upon so doing, the ryegrass 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.

(b) Grower contracts on proprietary varieties of ryegrass 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 ryegrass entered into after the date of publication of the recommended decision, shall not be exempt from this order.

§ ____.44 Foundation and registered ryegrass seed.

The handling of foundation and registered ryegrass seed shall be subject to this order.

INSPECTION AND IDENTIFICATION

§ ____.46 Quality regulation.

Subject to §§ ——.41 and ——.42 all ryegrass 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 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 2 crop years following publication. No ryegrass 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 Identification.

All ryegrass purchased from growers by handlers must be identified as eligible seed under rules prescribed by the Committee. Adequate records shall be maintained by each handler of all transactions involving ryegrass seed.

§ ____.48 Minimum quantity exemption.

The Committee with the approval of the Secretary may establish a minimum quantity of ryegrass which may be handled on behalf of any grower free from regulations issued pursuant to this order.

EXPENSES AND ASSESSMENTS

§ ____.55 Expenses.

The Committee is authorized to incur such expenses 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.

§ ____.56 Assessments.

(a) As his pro rata share of the expenses 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 quarter assessments on all ryegrass 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 1 crop year's expenses: *Provided*, That such rate of assessment, including any increase thereof, shall not exceed 5 cents per 100 pounds of cleaned ryegrass 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 ryegrass 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 1 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 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 purpose 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 ryegrass 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 ryegrass received or handled, the identifying marks, 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 ryegrass acquired from, or handled on behalf of all producers 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 3 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 ryegrass 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 grower 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 ryegrass, the handling of which has been prohibited under the provisions of this order, and no handler shall handle rye-

grass 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 ryegrass 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 for market of ryegrass within the production area; *Provided*, That such majority have, during such representative period, produced for market more than 50 percent of the volume of such ryegrass 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 Aet 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 necessary 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 or 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 or the United States to exercise any powers granted by the Act or otherwise or 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, circumstances 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.

Amendents to this order may be proposed, from time to time, by the Committee or by the Secretary.

§ ____.82 Counterparts.[1]

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.[2]

§ ____.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 such new contracting party.[2]

§ ____.84 Order with marketing agreement.

Each signatory handler favors and approves the issuance of an order by the Secretary regulating the handling of ryegrass 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.[3]

[7 CFR Part 921]

HANDLING OF FRESH PEACHES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Approval of Expenses and Fixing of Rate of Assessment for the 1974–75 Fiscal Period

This notice invites written comment relative to the proposed expenses of $8,961.00 and rate of assessment of $0.80 per ton of peaches to support the activities of the Washington Fresh Peach Marketing Committee for the 1974–75 fiscal period under marketing Order No. 921. It is also proposed that unexpended assessment income from 1973–74 be carried over as a committee reserve.

Consideration is being given to the following proposals submitted by the Washington Fresh Peach Marketing Committee, established under the marketing agreement, as amended, and Order No. 921, as amended (7 CFR Part

[1] Sections 82, 83, and 84 apply only to the proposed marketing agreement and not to the proposed order.

[2] Applicable only to the proposed marketing agreement.

[3] Applicable only to the proposed marketing agreement.

921), regulating the handling of fresh peaches grown in designated counties of Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

§ 921.214 Expenses and rate of assessment.

(a) That expenses that are reasonable and likely to be incurred by the Washington Fresh Peach Marketing Committee, during the period April 1, 1974, through March 31, 1975, will amount to $8,961;

(b) The rate of assessment for such period, payable by each handler in accordance with § 921.41 be fixed at $0.80 per ton of fresh peaches; and

(c) Unexpended assessment funds in excess of expenses incurred during the fiscal year ended March 31, 1974, be carried over as a reserve in accordance with § 921.42 of said marketing agreement and order.

Terms used in the marketing agreement, as amended, and order, as amended, shall, when used herein, have the same meaning as is given to the respective term is said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than July 25, 1974. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27 (b)).

Dated: July 8, 1974.

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

[FR Doc.74–15928 Filed 7–10–74;8:45 am]

[7 CFR Part 923]

HANDLING OF SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Expenses and Fixing of Rate of Assessment for the 1974–75 Fiscal Period

This notice invites written comment relative to proposed expenses of $23,748 and rate of assessment of $0.60 per ton of cherries to support the activities of the Washington Cherry Marketing Committee for the 1974–75 fiscal period under Marketing Order No. 923.

Consideration is being given to the following proposals submitted by the Washington Cherry Marketing Committee, established under the marketing agreement and Order No. 923 (7 CFR Part 923) regulating the handling of sweet cherries grown in designated counties in Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and likely to be incurred by said committee, during the period April 1, 1974, through March 31, 1975, will amount to $23,748.

(2) That there be fixed, at $0.60 per ton of sweet cherries, the rate of assessment payable by each handler in accordance with § 923.41 of the aforesaid marketing agreement and order.

(3) Unexpended assessment funds in excess of expenses incurred during the fiscal year ended March 31, 1974, be carried over as a reserve in accordance with § 923.42 of said marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than July 30, 1974. All written submissions made pursuant to this notice shall be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: July 8, 1974.

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

[FR Doc.74–15929 Filed 7–10–74;8:45 am]

[7 CFR Part 922]

HANDLING OF APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Approval of Expenses and Fixing of Rate of Assessment for the 1974–75 Fiscal Period

This notice invites written comments relative to the proposed expenses of $2,637.00 and rate of assessment of $1.20 per ton of apricots to support the activities of the Washington Apricot Marketing Committee for the 1974–75 fiscal period under marketing order No. 922. It is also proposed that unexpended assessment income from 1973–74 be carried over as a committee reserve.

Consideration is being given to the following proposals submitted by the Washington Apricot Marketing Committee, established under the marketing agreement, as amended, and Order No. 922, as amended (7 CFR Part 922), regulating the handling of apricots grown in designated counties in Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That the expenses that are reasonable and likely to be incurred by the Washington Apricot Marketing Committee during the period April 1, 1974, through March 31, 1975, will amount to $2,637.

(2) That there be fixed, at $1.20 per ton of apricots, the rate of assessment payable by each handler in accordance with § 922.41 of the aforesaid marketing agreement and order.

(3) Unexpended assessment funds in excess of expenses incurred during the fiscal year ended March 31, 1974, be carried over as a reserve in accordance with § 922.42 of said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than July 22, 1974. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: July 8, 1974.

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

[FR Doc.74–15930 Filed 7–10–74;8:45 am]

[7 CFR Part 948]

IRISH POTATOES GROWN IN COLORADO; AREA NO. 2

Expenses and Rate of Assessment

Consideration is being given to the approval of the expenses and rate of assessment, hereinafter set forth, which were recommended by the Area Committee for Area No. 2 established pursuant to Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR Part 948).

This marketing order program regulates the handling of Irish potatoes grown in the State of Colorado and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals may file the same, in quadruplicate, with the Hearing Clerk, Room 112–A, United States Department of Agriculture, Washington, D.C. 20250, before July 26, 1974. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposals are as follows:

§ 948.272 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the Area Committee for Area No. 2 to enable such committee to perform its functions, pursuant to the provisions of Marketing Agreement No. 97, as amended, and this part, during the fiscal period ending June 30, 1975, will amount to $17,390.

(b) The rate of assessment to be paid by each handler pursuant to Marketing

Agreement No. 97, as amended, and this part, shall be $0.0025 per hundredweight of potatoes grown in Area No. 2 handled by him as the first handler thereof during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period ending June 30, 1975, may be carried over as a reserve.

(d) Terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

Dated: July 8, 1974.

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

[FR Doc.74-15931 Filed 7-10-74;8:45 am]

[7 CFR Part 948]

IRISH POTATOES GROWN IN COLORADO

Proposed Handling Standards

In the proposed handling standards for Irish Potatoes Grown in Colorado—§ 948.371, in the June 26, 1974, FEDERAL REGISTER (39 FR 23062) the deadline of July 10, 1974, for filing written data, views or arguments was inadvertently omitted. The deadline is hereby extended to July 19, 1974, to allow additional time for filing such comments.

Dated: July 9, 1974.

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

[FR Doc.74-16097 Filed 7-10-74;11:35 am]

Animal and Plant Health Inspection Service

[9 CFR Part 319]

FRANKFURTERS AND CERTAIN OTHER COOKED SAUSAGE PRODUCTS

Proposed Standard of Composition

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553 that the Animal and Plant Health Inspection Service is considering amending § 319.180 of the Federal meat inspection regulations, pursuant to the authority contained in the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq)., to provide for the inclusion of bacon or bacon ends or pieces, diaphragmatic muscle meat, and cheek meat (i.e., cheeks trimmed of glands and fat), in frankfurters, bologna and similar product; and bacon or bacon ends or pieces, trimmings from cured or cured and smoked products, partially defatted chopped pork or beef, cheeks, and diaphragmatic muscle meat in frankfurters, bologna and similar products containing meat byproducts (variety meats).

Statement of considerations. On June 5, 1973, a document was published in the FEDERAL REGISTER (38 FR 14741–14743), amending the standard for frankfurters and certain other cooked sausage products in § 319.180 of the Federal meat inspection regulations (9 CFR 319.180). This was done pursuant to an order of the United States District Court for the District of Columbia, as modified by the United States Court of Appeals for the District of Columbia Circuit, in the case of "Federation of Homemakers v. Earl L. Butz, et al." (No. 71–1611). The amendment designated different ingredient and labeling requirements for the specified kinds of cooked sausages. The amendment provided that the provisions of amended § 319.180 would become effective on September 7, 1973. Pursuant to an order of the District Court on August 8, 1973, the effective date of the amended standard was postponed to January 1, 1974 (38 FR 22621).

The standard for the cooked sausages was promulgated after two notices by the Department of proposed standards for such products. The initial proposal was published in the FEDERAL REGISTER on December 23, 1972 (37 FR 28430). It contained details of the proposed standard and extensive background information to explain the significance of the specific provisions. It provided for two categories of sausage products, neither of which could contain meat byproducts. Typographical errors in that initial proposal were corrected by a notice in the December 28, 1972, FEDERAL REGISTER (37 FR 28636).

The proposal evoked more than 3,100 comments principally from consumers, meat packers, poultry processors, food scientists, and State government officials. Many of the comments provided significant information and data for consideration and in support of opinions expressed.

Comments received on the first notice served as a basis for developing a second proposed standard for the products. That proposal was published in the FEDERAL REGISTER on March 14, 1973 (38 FR 6898). This proposed standard included provisions for the use of meat byproducts (variety meats) in formulas for cooked sausages and required that products containing such ingredients be identified with explicit and informative labeling.

The comments submitted on the second proposed standard generally supported its provisions, and the details of the final standard, as promulgated on June 5, 1973, were in most respects identical to the proposal.

Since the June 5, 1973 amendment to the regulations, a number of cooked sausage processors have requested clarification of the meaning of the term "raw skeletal muscle meat," as used in the revised standard, and have asked that the Department consider adjusting the standard for cooked sausages to provide for the use of additional ingredients that the processors claim have been traditionally used in formulas for the sausage products. The additional ingredients suggested for inclusion in the standard are: Partially defatted chopped beef; partially defatted chopped pork; beef, veal, pork, lamb and goat cheeks; beef, veal, pork, lamb and goat diaphragmatic muscle meat; bacon or bacon ends or pieces; and trimmings of cured or cured and smoked meat food products such as hams, pork shoulders and beef. The processors have stated that, through oversight, their comments submitted on the standard when proposed failed to mention these additional ingredients and their importance in formulas of such cooked sausages.

The Department's records on formulas for the various kinds of cooked sausage, which were approved pursuant to the previous standard for cooked sausages, confirmed that bacon or bacon ends or pieces, and cured or cured and smoked meat trimmings in limited amounts, cheeks, diaphragmatic muscle meat, and partially defatted chopped beef and pork have been used frequently in preparing significant quantities of the sausage products. Their long usage as ingredients in the products suggests that they are acceptable to consumers, and it appears that provision should be made in the Department's meat inspection regulations for their continued inclusion in the manner that has been usual in formulas for frankfurters and similar cooked sausage.

It has been the Department's policy for many years to limit bacon or bacon ends or pieces, and cured and smoked or cured and cooked meat ingredients to not more than 10 percent of the total meat or meat and meat byproducts in a cooked sausage formula. The limitation is based on traditional composition practices, and there appears to be no good reason for eliminating the use of such ingredients or changing their normal manner of usage.

Analytical data available to the Department indicate that the nutritional quality of partially defatted chopped pork and partially defatted chopped beef products varies considerably and cannot be confidently assumed to approximate the food value normally associated with the raw skeletal muscle meat traditionally used in cooked sausages. Therefore, it appears that, if they are used in the cooked sausages, they should be classed as byproducts (or variety meats) rather than skeletal muscle meat.

Cheek meat (trimmed of glands and fat) and diaphragmatic muscle meat have customarily been considered by the Department and traded and used by the meat industry as "raw skeletal muscle meat". Cheeks (untrimmed) have traditionally been used in such sausages, but have not been considered as "raw skeletal muscle meat". Since untrimmed cheeks contain tissue which principally consists of fat and glands, it appears that they should be classed as byproducts when used in cooked sausages under § 319.180.

Accordingly, paragraphs (a), (b) and (g) of § 319.180 of the Department's meat inspection regulations (9 CFR 319.180, 38 FR 14741) would be amended to read as follows:

§ 319.180 Frankfurter, frank, furter, hotdog, wiener, vienna, bologna, garlic bologna, knockwurst, and similar products.

(a) Frankfurter, frank, furter, hotdog, wiener, vienna, bologna, garlic bologna, knockwurst, and similar cooked sausages are comminuted, semisolid sausages prepared from one or more kinds of raw skeletal muscle meat; or raw skeletal muscle meat combined with raw or cooked poultry meat, and/or bacon or bacon ends or pieces, and seasoned and cured, using one or more of the curing agents in accordance with § 318.7(c) of this subchapter. They may or may not be smoked. The finished products shall not contain more than 30 percent fat. Water or ice, or both, may be used to facilitate chopping or mixing or to dissolve the curing ingredients, but the sausage shall contain no more than 10 percent of added water. These sausage products may contain uncooked, cured pork from primal parts, as defined in § 316.9(b) of this subchapter, which do not contain any phosphates or contain only phosphates approved under Part 318 of this subchapter. Such products may contain raw or cooked poultry meat not in excess of 15 percent of the total ingredients, excluding water, in the sausage. Such poultry meat ingredients shall be designated in the ingredients statement on the label of such sausage in accordance with the provisions of § 381.118 of this chapter. Any bacon or bacon ends or pieces used as an ingredient of such sausage shall not be in excess of 10 percent of the total quantity of meat, or meat and poultry meat, ingredients in the sausage.

(b) Frankfurter, frank, furter, hotdog, wiener, vienna, bologna, garlic bologna, knockwurst and similar cooked sausages that are labeled with the phrase "with byproducts" or "with variety meats" in the product name are comminuted, semisolid sausages prepared from one or more kinds of raw skeletal muscle meat combined with raw meat byproducts, and, optionally, bacon or bacon ends or pieces; or of one or more kinds of raw skeletal muscle meat combined with raw meat byproducts and raw or cooked poultry products, and, optionally, bacon or bacon ends or pieces; and seasoned and cured, using one or more of the curing ingredients in accordance with § 318.7(c) of this subchapter. They may or may not be smoked. The raw skeletal muscle meat shall not be less than 15 percent of the total quantity of the ingredients in the sausage, excluding the water and ice. Partially defatted pork fatty tissue, partially defatted beef fatty tissue, partially defatted chopped pork, or partially defatted chopped beef, or any combination thereof, may be used in an amount not exceeding 15 percent of the total quantity of the meat and meat byproducts, or meat, meat byproducts, and poultry products ingredients. The finished products shall not contain more than 30 percent fat. Water or ice, or both, may be used to facilitate chopping or mixing or to dissolve the curing and seasoning ingredients, but the sausage shall contain no more than 10 percent of added water. These sausage products may contain uncooked, cured pork which does not contain any phosphates or contains only phosphates approved under Part 318 of this subchapter. Any bacon or bacon ends or pieces, and any trimmings from cured and smoked or cured and cooked products, such as hams, pork shoulders, and beef, individually or in combination, used as ingredients of such sausage shall not be in excess of 10 percent of the total quantity of meat and meat byproducts, or meat, meat byproducts, and poultry products ingredients in the formula. These sausage products may contain poultry products, individually or in combination, not in excess of 15 percent of the total ingredients, excluding water, in the sausage. Such poultry products shall not contain kidneys or sex glands. The amount of poultry skin present in the sausage must not exceed the natural proportion of skin present on the whole carcass of the kind of poultry used in the sausage, as specified in § 381.117(d) of this chapter. The poultry products used in the sausage shall be designated in the ingredient statement on the label of such sausage in accordance with the provisions of § 381.118 of this chapter. Meat byproducts used in the sausage shall be designated individually in the ingredient statement on the label for such sausage in accordance with § 317.2 of this subchapter.

* * * * *

(g) For the purposes of this section:

(1) Poultry meat means deboned chicken meat or turkey meat, or both, without skin or added fat; poultry products mean chicken or turkey, or chicken meat or turkey meat as defined in § 381.118 of this chapter, or poultry byproducts as defined in § 381.1 of this chapter; and meat byproducts (or variety meats) mean pork stomachs or snouts; beef, veal, lamb, or goat tripe; beef, veal, lamb, goat, or pork hearts, tongues, fat, lips, weasands, cheeks (not trimmed of glands and fat), and spleens; partially defatted pork fatty tissue, or partially defatted beef fatty tissue; partially defatted chopped pork, or partially defatted chopped beef; and trimmings from cured and smoked or cured and cooked pork and beef products.

(2) The term "raw skeletal muscle meat" include but is not limited to: beef, veal, lamb, goat or pork cheek meat (i.e. cheeks trimmed of glands and fat); or beef, veal, lamb, goat or pork diaphragmatic muscle meat.

* * * * *

Any person wishing to submit written data, views, or arguments concerning the proposed amendment may do so by filing them, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, or if the material is deemed to be confidential, with the Product Standards Staff, Technical Services, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, by September 13, 1974.

Any person desiring opportunity for oral presentation of views should address such requests to the Staff identified in the preceding paragraph, so that arrangements may be made for such views to be presented prior to the date specified in the preceding paragraph. A record will be made of all views orally presented.

All written submissions and records of oral views made pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk during regular hours of business, unless the person makes the submission to the Staff identified in the preceding paragraph and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect any person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be held confidential; otherwise, notice will be given of denial of such request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (7 CFR 1.27(c)).

Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., on July 3, 1974.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.74-15826 Filed 7-10-74;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 STATE

Office of the Secretary

[Public Notice 423]

TRANSFER OF FOREIGN ASSISTANCE FUNDS UNDER THE FISHERMEN'S PROTECTIVE ACT

Pursuant to section 5(b) of the Fishermen's Protective Act of 1967, as amended, and in accordance with Executive Order 11772, I hereby certify that it is in the national interest not to transfer to the account established in the Treasury, pursuant to section 7(c) of the Fishermen's Protective Act of 1967, as amended, funds from the Foreign Assistance Act of 1961 programmed for Ecuador and Peru in the amount of $198,861 which amount is equal to the amounts paid by the Secretary of Commerce and reimbursed by the Secretary of the Treasury in accordance with section 7 and section 3 of the Fishermen's Protective Act of 1967 as amended, for 7 fishing boat seizures by Ecuador and 7 fishing boat seizures by Peru occurring during the period November 23, 1971 to February 10, 1973.

Dated: June 28, 1974.

[SEAL] JOSEPH J. SISCO,
Acting Secretary of State.

[FR Doc.74-15845 Filed 7-10-74;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

FIREARMS

Notice of Granting of Relief

Notice is hereby given that pursuant to 18 U.S.C., section 925(c), the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Brown, Paul E., 318 4th Street, Plattsmouth, Nebraska, convicted on July 10, 1959, and on September 9, 1964, in the District Court of Cass County, Nebraska, and on December 17, 1960 in the District Court of Atchinson County, Kansas.

Buckley, Thomas R., Route 5, Frog Hollow Road, Jefferson City, Missouri, convicted on May 4, 1964, and on August 15, 1966, in the Cole County Circuit Court, Missouri.

Childress, Jr., Jefferson D., 143 West Ajo Way, Tucson, Arizona, convicted on January 21, 1958, in the Superior Court in and for Pima County, Arizona.

Elliott, Jimmie L., Route 2, Box 448, Willow Springs, Missouri, convicted on December 3, 1969, in Douglas County Circuit Court, Missouri.

Guthrie, Johnny M., Box 33, Walkertown, North Carolina, convicted on April 18, 1972, in the Superior Court, Forsyth County, North Carolina.

Hollis, Maurice W., 1033 West 12th Street, Flint, Michigan, convicted on March 1, 1963, in the Circuit Court for the County of Genesee, Michigan.

Marshall, Robert D., 2713 Alfreda Way, Redding, California, convicted on January 28, 1953, in the Superior Court of the State of California in and for the City of San Francisco.

Murphy, Larry L., 3251 East 78th Street, Inver Grove Heights, Minnesota, convicted on July 15, 1958, in the U.S. District Court for District of South Dakota, Southern Division; and on April 1, 1966, in the U.S. District Court, Fifth Judicial Circuit, County of Nicollet, Minnesota.

Saunders, Gerald F., 568 Phila Avenue, Chambersburg, Pennsylvania, convicted on June 9, 1971, in the Court of Common Pleas, Franklin County, Pennsylvania.

Spears, Billy Ray, Rural Route 2, Humansville, Missouri, convicted on June 11, 1956, in the Wright County Circuit Court, Hartville, Missouri; and on March 21, 1958, in the Green County Circuit Court, 31st Judicial Circuit, Springfield, Missouri.

Sponseller, Michael J., 14610 Woodbark Lane, Phoenix, Maryland, convicted on September 2, 1960, in the Circuit Court for Worcester County, Maryland; July 10, 1961, in the Magistrates Court in Cockeysville, Maryland; and on October 20, 1961, in the Circuit Court for Baltimore County, Maryland.

Stonebarger, Ronald B., Rural Route 1, Box 285, Arnold, Missouri, convicted on September 29, 1966, in the Warren County Circuit Court, Warrenton, Missouri; January 25, 1967, in the Boone County Circuit Court, Columbia, Missouri; May 1, 1967, in Howard County Circuit Court, Fayette, Missouri; and April 2, 1968, in the Audrain County Circuit Court, Mexico, Missouri.

Tippery, Marvin E., 1730 Third Avenue, Council Bluffs, Iowa, convicted on September 16, 1964, in the District Court of Iowa, Pottawattamie County.

Wacker, Rudolph C., 7520 Carroll Avenue, Baltimore, Maryland, convicted on January 17, 1955, and June 29, 1956, in the Criminal Court of Baltimore County, Maryland, and on October 13, 1972, in the U.S. District Court, District of Maryland.

Watson, Eulas R., Route No. 1, Kings Mountain, Kentucky, convicted on November 13, 1962, and on May 18, 1966, in the U.S. District Court, Western Division of Kentucky.

Wheeler, Eugenio R., aka Gene R. Wheeler, 778 North 300 West, Apt. 23, Salt Lake City, Utah, convicted on April 7, 1970, in the District Court, Third Judicial District, Salt Lake City, Utah.

Williams, Kenneth C., Box 31, Coatsburg, Illinois, convicted on June 1, 1953, in the United States District Court, Middle District of Pennsylvania.

Signed at Washington, D.C., this 28th day of June, 1974.

[SEAL] REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.74-15923 Filed 7-10-74;8:45 am]

Fiscal Service

[Dept. Circ. 570, 1973 Rev., Supp. No. 15]

EMMCO INSURANCE COMPANY

Surety Companies Acceptable on Federal Bonds; Termination of Authority

Notice is hereby given that the Certificate of Authority issued by the Treasury to the Emmco Insurance Company, South Bend, Indiana, under Sections 6 to 13 of Title 6 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated, effective June 30, 1974.

The company was last listed as an acceptable surety on Federal bonds at 38 FR 18343, July 9, 1973.

Bond-approving officers of the Government should, in instances where such action is necessary, secure new bonds in lieu of bonds executed by Emmco Insurance Company.

DATED: July 3, 1974.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.74-15921 Filed 7-10-74;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Cancellation of Meeting

JULY 1, 1974.

The meeting for the Air Force Systems Command Electronic Systems Division Advisory Group scheduled for July 31, 1974 (as published in 39 FR 24032-24033, June 28, 1974, paragraphs 6 and 7) at L. G. Hanscom Field, Massachusetts, has been cancelled. This meeting will be rescheduled at a later date.

STANLEY L. ROBERTS,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.74-15843 Filed 7-10-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Montana 064840; Cancellation 214]

MONTANA

Order Providing for Opening of Public Lands

JULY 3, 1974.

By published notice (36 FR 22780, November 30, 1971) the U.S. Geological Survey canceled Power Site Classification No. 303 of October 11, 1937, as to the following described lands:

PRINCIPAL MERIDIAN, MONTANA

T. 3 N., R. 5W.,
Sec. 25, SW¼NW¼ and SW¼.

The area described contains 200 acres in Jefferson County.

Under the authority delegated by Bureau of Land Management Order No. 701 dated July 23, 1964, as amended, and subject to determination of the Federal Power Commission in DA-194-Montana the above-described lands are hereby restored to the operation of the applicable public land laws subject to valid existing rights.

KENNETH J. SIRE,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-15867 Filed 7-10-74;8:45 am]

[NM 21855]

NEW MEXICO

Notice of Application

JULY 3, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for a cathodic protection station right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 24 S., R. 20 W.,
Sec. 7, Lot 4, SE¼SW¼.

This .151 mile right-of-way is necessary to maintain and operate a natural gas pipeline across national resource land in Hildalgo County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1420, 1705 North Valley Drive, Las Cruces, New Mexico 88001.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-15862 Filed 7-10-74;8:45 am]

[NM 21864]

NEW MEXICO

Notice of Application

JULY 3, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for a cathodic protection station right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 S., R. 2 E.,
Sec. 3, Lot 2.

This .054 mile right-of-way is necessary to maintain and operate a natural gas pipeline across national resource land in Dona Ana County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1420, 1705 North Valley Drive, Las Cruces, New Mexico 88001.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-15863 Filed 7-10-74;8:45 am]

[NM 21802]

NEW MEXICO

Notice of Application

JULY 3, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gas Company has applied for a 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 28 E.,
Sec. 26, E½W½.

This pipeline will convey natural gas across .762 miles of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-15864 Filed 7-10-74;8:45 am]

Office of Hearings and Appeals

[Docket No. M 74-148]

SNAP CREEK COAL CO.

Mandatory Safety Standard; Petition for Modification of Application

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Snap Creek Coal Company has filed a petition to modify the application of 30 CFR 75.1405 to its Rita Mine No. 6, Rita, 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.

Section 75.1405-1 of the regulations, to be read concurrently with 75.1405, provided that:

The requirements of 75.1405 with respect to automatic couplers applies only to track haulage cars which are regularly coupled and uncoupled.

In support of its petition to secure a waiver of 30 CFR 75.1405 Petitioner states in pertinent part that:

1. All of the mine cars are fitted with standard pin-and-link coupling devices. These haulage cars are delivered to each operating section in strings of 18 to 20 cars. The cars are loaded and then hauled to the outside dump where, without being uncoupled, the hinged bottoms of each car automatically open as the car is positioned over the dumping station.

2. Many of the haulageway rail switches leading from the main line into the working areas of the mine were installed when the mine was first being developed and are of shorter radius than those which would be needed to accommodate cars joined together with automatic couplers. These switches cannot be replaced with wider-radius switches without removing portions of the adjacent coal pillars which help provide roof support.

3. The existence of sharp grades over which the track has been laid also requires a degree of vertical flexibility in the car-coupling system. The relative lack of flexibility of automatic couplers both vertically and horizontally would cause derailments and require that workers position themselves between mine cars to re-track and re-couple affected mine cars.

4. All cars in use at the captioned mine for transporting coal and supplies will be coupled together in units or strings of cars using pin and link couplings and each pin will be fixed in position by welding a stop on the mine car to prevent the link from being disengaged.

5. The coupling end of all haulage electric locomotives and the rear end of the last car of each string will be fitted with a coupling lever so designed as to permit an employee to lift or drop the pin through the car bumper to secure or release a link that has been inserted from another haulage unit and to do this without the necessity of positioning himself between the units being coupled or uncoupled.

6. If it becomes necessary in the coupling operation to position the link, this also will be done without the employee positioning himself between the units—he will effectuate this alignment by using

a specially designed Hand Link Aligner tool which shall be part of the equipment on all haulage crews.

7. All employees at the captioned mine will be trained and instructed in the proper operation and use of the Coupling Levers and the Hand Link Aligners and their proper use will be mandatory requirements for coupling and uncoupling of all mine car coal haulage units at this mine.

Petitioner's proposal is supported by schematic drawings of the proposed coupling levers and Hand Link Aligners.

Petioner asserts that its proposed alternative will at all times afford the same protection as the application of the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 12, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

JULY 3, 1974.

[FR Doc.74-15839 Filed 7-10-74;8:45 am]

[Docket No. M 74-143]

WEBSTER COUNTY COAL CORP.

Mandatory Safety Standard; Petition for Modification of Application

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Webster County Coal Corporation has filed a petition to modify the application of 30 CFR 75.1405 to its Datiki Mine, Clay, Kentucky.

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 to secure a waiver of 30 CFR 75.1405 Petitioner states in pertinent part:

1. Management of the mine believes and can substantiate reasons why automatic couplers would create a situation that would be more hazardous than Petitioner's present system of coupling cars.

2. All of our track haulage is by supply cars which are rubber-rail, Kersey Manufacturing Company, Model No. 5512-20. These cars which are also towed by rubber tired tractors after they are taken off track.

3. Present methods of coupling permits access to the coupling tongues without a man being exposed to the danger of being caught between end of cars.

4. The design of available automatic couplers creates a situation where coupling and uncoupling cars while they are being taken to various places in the mine presents a problem and a hazard in that men handling cars must block up or otherwise manipulate automatic coupler halves when cars are in a location where the mine floor is uneven.

5. These so called "automatic" couplers may function properly when cars are on smooth level track, but must be aligned in some fashion when at an angle.

6. Petitioner uses safety ropes which are ¾" wire rope with attached clevis which are connected between cars as they are coupled together.

7. Installing "automatic" couplers will not eliminate the need for safety ropes or chains, because "automatic" couplers will and do become inadvertently uncoupled while traveling over unlevel areas of track or roadways in mine.

8. Most of Petitioner's haulage track lays on a grade or slope and some type of safety ropes or chains must be used regardless of the type couplers that are involved.

9. The coupling tongues which Petitioner presently uses are constructed from 1" x 4" hardened steel and can be placed and coupled between cars without a man being positioned in a hazardous location. Petitioner has operated this mine using these couplers for almost seven (7) years and has never had an accident involving a man coupling or uncoupling cars.

10. If automatic couplers were incorporated on Petitioner's cars, they would have to be removed from each car and replaced as the car was put on or taken off the hoisting cage.

11. Due to the physical size and weight of available automatic coupler parts, it would create additional hazards for supply personnel to remove, lift and replace couplers in their sockets as cars were hoisted in and out of mine.

Petitioner's proposal is supported by exhibits detailing: safety ropes, coupling tongues, the physical dimensions of the supply handling cage and the position of the car on the cage as it pertains to the clearance for the car on the cage platform.

Petitioner asserts that its proposed alternative will at all times afford the same protection as the application of the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 12, 1970. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

JULY 3, 1974.

[FR Doc.74-15840 Filed 7-10-74;8:45 am]

[Docket No. M 74-144]

WEBSTER COUNTY COAL CORP.

Mandatory Safety Standard; Petition for Modification of Application

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Webster County Coal Corporation has filed a petition to modify the application of 30 CFR 75.1405 to its Retiki Mine.

30 CFR 75.1405 provides:

All haulage equipment acquired by the 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 to secure a waiver of 30 CFR 75.1405 Petitioner states in pertinent part that:

1. 75.1405-1 states: "The requirement of 75.1405 with respect to automatic couplers applies *only to track haulage cars* which are regularly coupled and uncoupled" (emphasis added).

2. Petitioner submits that the foregoing provision was enacted with the intent to require those coal mines who utilize track haulage for movement of their coal, employing large locomotives with several cars in a trip traveling at high speeds, to use automatic couplers. These couplers would eliminate having a man go between cars and physically coupling each car in the trip while the motorman may be some distance away operating the locomotive. Using link and pin couplers for long trips of coal haulage is neither safe nor practical.

3. Presently at Petitioner's Retiki Mine the only track in the mine is on the out slope. This slope track is used solely for the purpose of lowering supplies into the mine and pulling out empty supply cars by a hoist. At the bottom, supply cars are removed from the hoist rope and rubber-tired tractors are coupled by use of a 1½" x 4" x 29½" steel tow bar and two 1½" x 14½" pins securing a safe coupling. The required use of automatic couplers would present Petitioner's personnel with quite a problem in operating vehicles from track to ground or ground to track, and obtaining the proper level and alignment to secure a good coupling of cars to the tractor.

4. Installing automatic couplers would not eliminate the need for safety ropes or chains because automatic couplers will and do become inadvertently uncoupled while traveling over unlevel areas of track or roadways in the mine.

5. The use of automatic couplers at the subject mine could very well contribute to a very serious injury.

6. Petitioner's contention is that automatic couplers are suited to an *all rail* movement of product or supplies, but for Petitioner's operation they would be very dangerous and not at all practical.

Petitioner's proposal is supported by exhibits detailing the construction of the

supply cars and proposed coupling methods used at the subject mine.

Petitioner asserts that its proposed alternative will at all times afford the same protection as the application of the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments by August 12, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

JULY 3, 1974.

[FR Doc.74-15838 Filed 7-10-74;8:45 am]

Office of the Secretary

OCALA NATIONAL FOREST, FLORIDA

Suspension of Operations and Production on Oil and Gas Leases

Published in the FEDERAL REGISTERS of July 15, 1971 (36 FR 13168), June 27, 1972 (37 FR 12646), and June 4, 1973 (38 FR 14697), in accordance with the provisions of section 39 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 209) and 43 CFR 3103.3-8, were notices dated July 7, 1971, June 21, 1972, and May 23, 1973, respectively, signed by the Secretary of the Interior, directing "that all operations and production be suspended in the interest of conservation on all Federal oil and gas leases issued under the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181-263), or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351-263) and lying, in whole or in part, within the outer boundaries of the Ocala National Forest, Fla.

"In accordance with the provisions of section 39, supra, and 43 CFR 3103.3-8, no payment of rental will be required during the period of suspension and the term of each lease subject to this order will be extended by a period equal to the period during which the suspension is in effect."

The suspensions began July 7, 1971, and terminate at midnight July 6, 1974. The July 6, 1974, termination date specified in the May 23, 1973, notice is hereby changed to July 22, 1974.

JULY 5, 1974.

JOHN C. WHITAKER,
Acting Secretary of the Interior.

[FR Doc.74-15841 Filed 7-10-74;8:45 am]

SEAL BEACH NATIONAL WILDLIFE REFUGE; CALIFORNIA

Notice of Establishment

Whereas, the Act of August 29, 1972 (86 Stat. 633), authorizes the Secretary of the Interior to establish the Seal Beach National Wildlife Refuge as a unit of the National Wildlife Refuge System, and

Whereas, section 2(a) of the act provides that the refuge shall consist of certain lands, to be determined by the Secretary of the Interior with the advice and consent of the Secretary of the Navy, within the United States Naval Weapons Station, Seal Beach, California, and

Whereas, section 2(b) of the act further provides that upon determination of the boundaries of the refuge, the Secretary of the Interior shall immediately designate the area agreed upon as a refuge by publication of a description in the FEDERAL REGISTER.

Now, therefore, notice is given that the Seal Beach National Wildlife Refuge is established on lands of the Seal Beach Naval Weapons Station described as follows:

Beginning at the road intersection of Case Road and Bolsa Avenue; thence west along the north side of Bolsa Avenue to the intersection with Target Road; thence southeast along the south side of Target Road to its intersection with Case Road; thence south along the west side of Case Road to its intersection with Slough Road; thence easterly along the south side of Slough Road to a point where Slough Road turns northeasterly; thence due east crossing 7th Street to a point on the west side of Madera Road; thence south along the west side of Madera Road to a point where Madera Road turns southwesterly; thence continuing southwesterly along the west side of Madera Road approximately 430 feet to a point; thence due south to a point on the north side of Perimeter Road; thence west along the north side of Perimeter Road to a point where Perimeter Road turns northerly; thence due west following the Station boundary approximately 4,200 feet to a point; thence north with the Station boundary approximately 700 feet to a point; thence west along the Station boundary approximately 950 feet to a corner east of Highway 1; thence northerly and northwesterly with the Station boundary to a corner near the intersection of Highway 1 and Kitts Highway; thence northeasterly along the east side of Kitts Highway passing Forrestal Avenue to a point approximately 1,000 feet past Forrestal Avenue; thence southeasterly along a fence south of Building No. 78 to a point on the east side of 6th Street; thence northeasterly along the east side of 6th Street to Case Road; thence southeasterly along the west side of Case Road to the P.O.B.

It is intended in this description to exclude all buildings and other structures including those on the oil drill site. A map showing the boundary of the Seal Beach National Wildlife Refuge is available from the Regional Director, U.S. Fish and Wildlife Service, 1500 Plaza Building, 15 NE., Irving Street, Portland, Oregon 97208.

Dated: July 5, 1974.

JOHN C. WHITAKER,
Acting Secretary of the Interior.

[FR Doc.74-15866 Filed 7-10-74;8:45 am]

DEPARTMENT OF LABOR

Office of Secretary

[V-73-21]

BURD & FLETCHER CO.

Grant of Variance

I. *Background.* Burd & Fletcher Company, 321 W. Seventh Street, Kansas City, Missouri 64105 made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and for an interim order pending a decision on the application for a variance, from the safety standards prescribed in 29 CFR 1910.213(c)(1) which specifies the type of guard required for circular hand-fed ripsaws. The facility affected by this application is: Burd & Fletcher Company, 321 W. Seventh Street, Kansas City, Missouri 64105. Notice of the original application and of the grant and denial of interim orders concerning various aspects of the variance request were published in the FEDERAL REGISTER on September 25, 1973 (38 FR 26778). An amended application was later submitted containing a new procedure for the portion of the request for which the interim order had been denied. The notice of the amended application and of the grant of interim order was published in the FEDERAL REGISTER on February 21, 1974 (39 FR 6647). The notices invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were notified of their right to request a hearing on the application for a variance. No written comments and no request for a hearing have been received.

II. *Facts.* The applicant has 3 circular ripsaws which it uses to cut wood blocks for dies in the manufacture of paper cartons. When cutting pieces 1 inch or larger, a manually adjustable clear plastic guard is used. This guard covers the top, front, and cutting side of the saw while allowing the operator to observe the work, but does not meet the specific requirements of 29 CFR 1910.213(c)(1).

When pieces of less than one inch are cut, they are held against the saw blade with a pick. A two-part guard has been developed consisting of two flat pieces of plastic mounted on legs. The stationary portion of the guard covers the top of the saw ¼" above the blade. The other part of the guard is attached to a push guide 5/16" from the stationary guard, leaving a slot for the pick which holds the wood block. This portion of the guard can be pushed back as the cut is made to provide continuous protection for the hand holding the pick.

III. *Decision.* 29 CFR 1910.213(c) requires that circular hand-fed ripsaws be guarded by hoods which meet the specifications of this section. This is intended to provide maximum protection to employees both from the blade itself and from flying materials.

ANSI 01.1-1954, the source standard for § 1910.213(c)(1) recognizes that the guards required by the standard are not adaptable to all operations. In addition, manually adjustable guards are recognized by ANSI 01.1-1971 as an acceptable means of guarding.

The applicant has developed two special guards for use in its sawing operations. A manually adjustable guard is used in making cuts on material one inch

in width or greater. For cuts on pieces less than one inch in width a guard is used with a slot for a pick and a movable section which slides as the hand moves to provide continuous protection as the cut is made.

The applicant has submitted photographs showing each guard in use. From these photographs and from the descriptions of the guards, it appears that the guards which the applicant has developed meet the intent of the standard in that employees are protected from the blade of the saw and from material thrown out by the saw. Therefore, the applicant is providing a place of employment as safe as that which would be obtained by complying with 29 CFR 1910.213(c)(1).

IV. *Order.* Pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, and in Secretary of Labor's Order No. 12–71 (36 FR 8754), it is ordered that Burd & Fletcher Company be, and it is hereby, authorized to use the guards it has developed on its circular hand-fed ripsaws in lieu of complying with the specifications of 29 CFR 1910.213(c)(1). The clear plastic manually adjustable guard shall be used when making cuts on pieces one inch or greater in width. The clear plastic guard with a slot for the pick shall be used when cutting pieces less than one inch in width.

As soon as possible Burd & Fletcher Company shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

Effective date. This order shall become effective on July 11, 1974, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970.

Signed at Washington, D.C., this 3rd day of July 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74–15904 Filed 7–10–74;8:45 am]

DEPARTMENT OF COMMERCE

Office of the Secretary

NATIONAL INDUSTRIAL ENERGY CONSERVATION COUNCIL'S SUB-COUNCIL ON TECHNOLOGY

Notice of Public Meeting

A meeting of the NIECC's Sub-Council on Technology will be held from 1 p.m. to 3 p.m. on Wednesday, July 24, 1974, in Room 4833, Main Commerce Building, 14th and E Streets NW., Washington, D.C.

The Council was established to report and advise the Secretary of Commerce on programs and problems relating to energy conservation within the industrial and commercial sectors; provide a forum for the exchange of views on conservation between government and the industrial-commercial sectors; advise on policies, plans, and actions of government agencies involving energy use and conservation. The Council may identify and evaluate current and potential energy conservation plans within industry.

The agenda will be devoted to a discussion of the Technology goals established by the Council during its meeting of February 20, 1974.

Oral statements or participation by the public in the meeting will not be permitted, but any member of the public who wishes to file a written statement with the Council may do so before or after the meeting.

Persons who wish to attend the meeting should contact Dr. Bruce B. Robinson, Room 3870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230—(202) 967–2394.

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

JULY 5, 1974.

[FR Doc.74–15819 Filed 7–10–74;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[FmHA Instruction 471.1]

CERTIFICATES OF BENEFICIAL OWNERSHIP

Interest Rates to Investors

Notice is hereby given by the Farmers Home Administration that the current rate of interest for certificates of beneficial ownership sold through the National Finance Office established pursuant to 7 CFR 1873.3(b) is as follows:

Rate	*Term of Investment*
9 percent	1 through 9 Years.
8¾ percent (8.75 percent)	10 through 25 Years.

Effective Date. This notice shall be effective on July 11, 1974.

Dated: July 5, 1974.

FRANK W. NAYLOR, JR.,
Acting Administrator, Farmers Home Administration.

[FR Doc.74–15827 Filed 7–10–74;8:45 am]

Food and Nutrition Service

[FSP No. 1974–6.1; Amdt. No. 31]

FOOD STAMP PROGRAM

Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance; Guam

Section 5(b) of the Food Stamp Act requires the establishment of special standards of eligibility and coupon allotment schedules for Guam which reflect the average per capita income and cost of obtaining a nutritionally adequate diet. Additionally, section 5(b) specifies that these special standards of eligibility or coupon allotment schedules shall not exceed those in the fifty States.

The cost of a nutritionally adequate diet—the economy food plan—is estimated by the Agricultural Research Service based on food prices provided by the Bureau of Labor Statistics. Based on prices provided for Guam, the Agricultural Research Service estimated that the cost of the economy food plan would be higher than in the 50 States. Thus, the coupon allotments set forth for Guam are the same as those which will become effective in Alaska on July 1, 1974.

The total monthly coupon allotment for some households is not divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their total coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirement for such allotments.

In view of the need for placing this notice into effect on July 1, 1974, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice. Notice FSP No. 1974–6.1 reads as follows:

MAXIMUM MONTHLY ALLOWABLE INCOME STANDARDS AND BASIS OF COUPON ISSUANCE: GUAM

As provided in § 271.3(b), households in which all members are included in the federally aided public assistance or general assistance grant shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally aided public assistance or general assistance, in Guam, shall be as follows:

Household size:	*Maximum allowable monthly income standards—Guam*
1	$218
2	353
3	507
4	640
5	760
6	873
7	987
8	1,100
Each additional member	+93

"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the Food Stamp Program regulations.

Pursuant to section 7 (a) and (b) of the Food Stamp Act, as amended (7 U.S.C. 2016, Pub. L. 91–671), the face value of the monthly coupon allotment which the State agency is authorized to issue to any household certified as eligible to participate in the program and the amount charged for the monthly coupon allotment in Guam are as follows:

Monthly coupon allotments and purchase requirements—Guam

Monthly net income	For a household of—							
	1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons
	The monthly coupon allotment is—							
	$58	$106	$152	$192	$228	$262	$296	$330
	And the monthly purchases requirement is—							
0 to $19.99	0	0	0	0	0	0	0	0
$20 to $29.99	$1	$1	0	0	0	0	0	0
$30 to $39.99	4	4	$4	$4	$5	$5	$5	$5
$40 to $49.99	6	7	7	7	8	8	8	8
$50 to $59.99	8	10	10	10	11	11	12	12
$60 to $69.99	10	12	13	13	14	14	15	16
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	33	34	35	36
$130 to $139.99	27	32	33	34	36	37	38	39
$140 to $149.99	30	35	36	37	39	40	41	42
$150 to $159.99	33	38	40	41	42	43	44	45
$160 to $169.99	39	44	46	47	48	49	50	51
$170 to $179.99	44	50	52	53	54	55	56	57
$180 to $189.99	44	56	58	59	60	61	62	63
$190 to $199.99		62	64	65	66	67	68	69
$200 to $209.99		68	70	71	72	73	74	75
$210 to $219.99		74	76	77	78	79	80	81
$220 to $229.99		80	82	83	84	85	86	87
$230 to $239.99		80	88	89	90	91	92	93
$240 to $249.99		80	94	95	96	97	98	99
$250 to $259.99			103	104	105	106	107	108
$260 to $269.99			112	113	114	115	116	117
$270 to $279.99			121	122	123	124	125	126
$280 to $289.99			130	131	132	133	134	135
$290 to $299.99			130	140	141	142	143	144
$300 to $309.99				149	150	151	152	153
$310 to $319.99				158	159	160	161	162
$320 to $329.99				164	168	169	170	171
$330 to $339.99				164	177	178	179	180
$340 to $349.99				164	186	187	188	189
$350 to $359.99					195	196	197	198
$360 to $369.99					196	205	206	207
$370 to $379.99					196	214	215	216
$380 to $389.99					196	223	224	225
$390 to $399.99						226	233	234
$400 to $409.99						226	242	243
$410 to $419.99						226	251	252
$420 to $429.99						226	256	261
$430 to $439.99							256	270
$440 to $449.99							256	279
$450 to $459.99							256	286
$460 to $469.99								286
$470 to $479.99								286
$480 to $489.99								286
$490 to $499.99								286

FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

A. *Value of the Total Allotment.* For each person in excess of eight, add $28 to the monthly coupon allotment for an eight-person household.

B. *Purchase Requirement.* 1. Use the purchase requirement shown for the eight-person household for households with incomes of $959.99 or less per month.

2. For households with monthly income of $960 or more, use the following formula:

For each $30 worth of monthly income (or portion thereof) over $959.99, add $9 to the monthly purchase requirement shown for the eight-person household with an income of $959.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add $24 for each person over eight to the maximum purchase requirement shown for an eight-person household.

Effective date. The provisions of this notice shall become effective on July 1, 1974.

(Catalog of Federal Domestic Assistance Program No. 10,551, National Archives Reference Services)

F. J. MULHERN,
Acting Assistant Secretary.

JULY 5, 1974.

[FR Doc.74-15736 Filed 7-10-74;8:45 am]

Forest Service

BEAVER CREEK UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Beaver Creek Planning Unit, Daniel Boone National Forest, Kentucky, USDA-FS-R8-DES (Adm.)-75-1.

This environmental statement concerns the proposed management direction and resource allocation for the Beaver Creek Unit, Somerset Ranger District, Daniel Boone National Forest.

This draft environmental statement was transmitted to CEQ on July 2, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service,
South Agriculture Bldg., Room 3230,
12th St. and Independence Ave. SW.,
Washington, D.C. 20250.

USDA, Forest Service,
1720 Peachtree Road NW., Room 804,
Atlanta, Ga. 30309.

USDA, Forest Service,
Daniel Boone National Forest,
100 Vaught Road,
Winchester, Ky. 40391.

A limited number of single copies are available upon request to John E. Alcock, Forest Supervisor, Daniel Boone National Forest, 100 Vaught Road, Winchester, Kentucky 40391.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to John E. Alcock, Forest Supervisor, Daniel Boone National Forest, 100 Vaught Road, Winchester, Kentucky 40391. Comments must be received by September 2, 1974 in order to be considered in the preparation of the final environmental statement.

STANFORD M. ADAMS,
Acting Regional Forester.

JULY 2, 1974.

[FR Doc.74-15829 Filed 7-10-74;8:45 am]

SUPERIOR NATIONAL FOREST; BOUNDARY WATERS CANOE AREA PLAN

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Boundary Waters Canoe Area Plan, USDA-FS-R9-FES-(Adm)-74-1.

The environmental statement concerns a proposed Land Use Management Plan containing management objectives, direction, and policies for the administration of the 1,030,000 acre Boundary Waters Canoe Area within the Superior National Forest in northern Minnesota.

This final environmental statement was transmitted to CEQ on June 28, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service,
South Agriculture Bldg., Room 3230,
12th St. and Independence Ave. SW.,
Washington, D.C. 20250.

USDA, Forest Service, Eastern Region,
633 West Wisconsin Avenue,
Milwaukee, Wis. 53203.

USDA, Forest Service,
Superior National Forest,
Federal Building,
Duluth, Minn. 55801.

USDA, Forest Service,
Chippewa National Forest,
Cass Lake, Minn. 56633.

USDA—Forest Service,
North Central Forest Experiment Station,
Folwell Avenue,
St. Paul, Minn. 55101.

USDA—Forest Service,
Aurora Ranger District,
Aurora, Minn. 55705.

USDA—Forest Service,
Gunflint Ranger District,
Grand Marais, Minn. 55604.

USDA—Forest Service,
Halfway and Kawishiwi Ranger Districts,
Ely, Minn. 55731.

USDA—Forest Service,
Isabella Ranger District,
Isabella, Minn. 55607.

USDA—Forest Service,
Tofte Ranger District,
Tofte, Minn. 55615.

USDA—Forest Service,
Two Harbors Ranger District,
Two Harbors, Minn. 55616.

USDA—Forest Service,
LaCroix Ranger District,
Cook, Minn. 55723.

USDA—Forest Service,
Virginia Ranger District,
Virginia, Minn. 55792.

A limited number of single copies are available upon request to the Forest Supervisor, Superior National Forest, P.O. Box 338, Duluth, Minnesota 55801.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

JAY H. CRAVENS,
Regional Forester,
Eastern Region.

JUNE 28, 1974.

[FR Doc.74-15828 Filed 7-10-74;8:45 am]

ELK CITY PLANNING UNIT; MULTIPLE USE PLAN

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Elk City Planning Unit, Forest Service Report Number USDA-FS-FES (Adm) R1-74-3.

The environmental statement concerns a proposed action to implement a multiple use plan for the Elk City planning unit, Elk City Ranger District, Nezperce National Forest, in Idaho County, Idaho. Eighty-nine thousand acres are included in the planning unit, of which 66,000 acres are National Forest lands. Twenty-seven thousand acres of the National Forest lands are roadless.

This final environmental statement was filed with CEQ on July 2, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service,
South Agriculture Bldg., Room 3231,
12th St. and Independence Ave. SW.,
Washington, D.C. 20250.

USDA, Forest Service,
Northern Region,
Federal Building,
Missoula, Mont. 59801.

USDA, Forest Service,
Nezperce National Forest,
319 East Main,
Grangeville, Idaho 83530.

A limited number of single copies are available upon request to Acting Forest Supervisor Willard C. Clementson, Nezperce National Forest, 319 East Main, Grangeville, ID 83530.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

KEITH M. THOMPSON,
Acting Regional Forester,
Northern Region, Forest Service.

JULY 2, 1974.

[FR Doc.74-15830 Filed 7-10-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

VENEREAL DISEASE CONTROL ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, the Director, Center for Disease Control, announces the meeting date and other required information for the following National Advisory body scheduled to assemble during the month of August 1974.

Committee name	Date, time, place	Type of meeting and contact person
Venereal Disease Control Advisory Committee.	August 7, 1974, 9:00 a.m., Room 207, Bldg. 1, Center for Disease Control, Atlanta, Ga. 30333.	Open—Contact Mr. Joe H. Miller, Bldg. B, Room 320, Center for Disease Control, Atlanta, Ga. 30333. Code: 404-633-3311 Ext. 3937.

Purpose. The Committee is charged with advising on means and methods of implementing venereal disease control programs, reviewing current and proposed program operations and suggesting new areas of control emphasis.

Agenda. Items will include discussion of Committee recommendations from the March 28-29, 1974, Committee meeting, and in-depth consideration of currently recommended therapy schedules for venereal disease treatment.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: June 27, 1974.

WILLIAM C. WATSON,
Acting Director,
Center for Disease Control.

[FR Doc.74-15865 Filed 7-10-74;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS ENVIRONMENTAL SUBCOMMITTEE

Notice of Meeting

JULY 8, 1974.

In accordance with the purposes of sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards' Environmental Subcommittee will hold a meeting on July 26 and 27, 1974, in Room 1046, 1717 H Street NW., Washington, D.C. The purpose of the meeting will be to consider a variety of subjects and programs pertaining to emergency planning, required as part of an application for a nuclear power plant construction permit or operating license.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

FRIDAY, JULY 26, 1974—9:30 A.M. TO 5 P.M.

Discussion with representatives of the Tennessee Valley Authority (re: TVA's approach to Emergency Plans), the Environmental Protection Agency, and AEC Staff concerning current experiences and proposed activities regarding emergency planning.

In connection with the above agenda items, the Subcommittee and its consultants will hold an executive session at 9 a.m. on July 26, 1974, which will involve a discussion of their preliminary views of the agenda items, and an executive session all day on July 27, 1974, to discuss and to formulate appropriate recommendations to the full ACRS regarding emergency planning, and to discuss possible items for future agenda.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the executive sessions at the beginning and end of the meeting will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views and to avoid undue interference with Agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than July 19, 1974 to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the

meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 1 p.m. and 4:30 p.m. on July 26, 1974.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on July 24, 1974 to the Office of the Executive Secretary of the Committee (telephone 301-973-5651) between 8:30 a.m. and 5:15 p.m., Eastern Daylight Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street NE., Washington, D.C. 20002 (telephone: 202-547-6222), upon payment of appropriate charges.

(i) On request, copies of the Minutes of the meeting will be made available for inspection at the Atomic Energy Commission Public Document Room, 1717 H Street NW., Washington, D.C. 20545, after September 26, 1974. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-15939 Filed 7-10-74;8:45 am]

[Docket No. 50-332]

ALLIED GENERAL NUCLEAR SERVICES, ET AL.

Notice of Hearing

Take notice, that in accordance with the "Notice of Hearing Pursuant to 10 CFR Part 50, Appendix D, Section B", published by the Atomic Energy Commission in the FEDERAL REGISTER on November 9, 1973 (38 FR 31031), a hearing in the above-identified proceeding will be held before this Atomic Safety and Licensing Board ("the Board"), to consider environmental issues relating to Construction Permit No. CPCSF-4 issued on December 18, 1970, to Allied-General Nuclear Services, et al. ("the licensees") authorizing the construction of Barnwell Nuclear Fuel Plant at the licensees' site near the town of Barnwell, Barnwell County, South Carolina.

The matter having come before the Board at prehearing conferences held on March 27 and May 29, 1974, and the parties or their counsel having been present and participating in said conferences, *It is ordered*, That the evidentiary hearing in this proceeding shall be convened on Tuesday, August 27, 1974, at 10 a.m. local time, at the Barnwell County Courthouse, Barnwell, South Carolina 29812. The hearing will be adjourned at noon on August 30 and be reconvened at the above location at 10 a.m. on September 9, 1974, to continue from day to day until completed.

Pursuant to the Commission's notice of hearing, the Board will decide the matters in controversy among the parties within the scope of Appendix D to 10 CFR Part 50, with regard to whether Construction Permit No. CPCSF-4 should be continued, modified, terminated or appropriately conditioned to protect environmental values. In addition, the Board will in accordance with section A.11 of Appendix D to 10 CFR Part 50, (a) determine whether the requirements of section 102(2)(c) and (D) of the National Environmental Policy Act of 1969, and Appendix D to 10 CFR Part 50 of the Commission's regulations have been complied with in this proceeding; (b) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view toward determining the appropriate action to be taken; and (c) determine, after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, whether the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

The public is invited to attend the hearing. Any person who has requested the opportunity to make a limited appearance will be afforded an opportuity to state his or her views or to file a written statement on the first day of the hearing or at such other times as the Licensing Board may for good cause designate.

The following agenda will be followed:

1. Disposition of preliminary matters raised by the parties or by the Atomic Safety and Licensing Board;
2. Opening statements of the parties;
3. Statements by persons permitted to make limited appearances;
4. Disposition of preliminary motions of the parties and related matters;
5. Introduction of testimony; and
6. Questioning of witnesses by parties and by members of the Licensing Board.
7. Closing matters.

It is so ordered.

Issued at Bethesda, Maryland this 8th day of July, 1974.

ATOMIC SAFETY AND LICENSING BOARD,
ROBERT M. LAZO,
Chairman.

[FR Doc.74-15900 Filed 7-10-74;8:45 am]

[Docket No. 50-317]

BALTIMORE GAS AND ELECTRIC CO.

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Request for Extension

As required by 10 CFR 50.46(a), certain licensees and applicants must submit, consistent with 10 CFR 50.46(a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Baltimore Gas & Electric Co. (the applicant) for a sixty (60) day extension of the submittal date for the Calvert Cliffs ECCS evaluation. The request for extension is accompanied by an affidavit outlining the reasons why the evaluation is not complete and the minimum time necessary to complete it. Calvert Cliffs, Unit 1, is presently scheduled for fuel loading in July, 1974.

Baltimore Gas & Electric Co. states that the reactor vendor has reported that the evaluations will not be completed for submittal to the Atomic Energy Commission by August 3, 1974, and that a minimum of sixty (60) additional days will be required.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR 50.46(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing USAEC—Regulation, Washington, D.C. 20545, not later than July 25, 1974.

A copy of the request for extension dated June 14, 1974 and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Calvert County Library, Prince Frederick, Maryland 20678.

Dated at Bethesda, Maryland, this 5th day of July 1974.

For the Atomic Energy Commission.

OLAN D. PARR,
Chief, Light Water Reactors, Project Branch 1-3, Directorate of Licensing.

[FR Doc.74-15898 Filed 7-10-74;8:45 am]

[Docket No. 50-293]

BOSTON EDISON CO.

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Request for Extension

As required by 10 CFR 50.46(a), certain licensees and applicants must submit, consistent with 10 CFR 50.46(a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Boston Edison Co. (the licensee) for a sixty (60) day extension of the submittal date for the Pilgrim 1 ECCS evaluation. The request for extension is accompanied by an affidavit outlining the reasons why the evaluation will not be complete and the time necessary to complete it. The licensee is authorized by Facility Operating License No. DPR-35 to operate the Pilgrim Station Unit No. 1 located in Plymouth County, Massachusetts, at steady-state power levels up to 1998 MWt.

Boston Edison Company states that the reactor vendor will provide the evaluations to the Boston Edison Co. no earlier than July 18, 1974, and that, upon receipt of the completed ECCS evaluation, it must prepare proposed Technical Specification revisions to restrict reactor parameters to within an operating envelope determined by the evaluation; the station's Operations Review Committee is required to review and approve proposed Technical Specification revisions; and the company's Nuclear Safety Review and Audit Committee is required to review proposed Technical Specification revisions. Based on experience with previous material of this type, Boston Edison Co. states that a 60-day extension is required in order to provide time for an adequate technical review of the proposed Technical Specification revisions resulting from the evaluation.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR 50.46(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing, USAEC—Regulation, Washington, D.C. 20545, not later than July 25, 1974.

A copy of the request for extension dated June 19, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Dated at Bethesda, Maryland this 5th day of July, 1974.

For the Atomic Energy Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch #2, Directorate of Licensing.

[FR Doc.74-15890 Filed 7-10-74;8:45 am]

[Docket No. 50-261]

CAROLINA POWER & LIGHT CO.

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Request for Extension

As required by 10 CFR 50.46(a), certain licensees and applicants must submit, consistent with 10 CFR § 50.46(a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Carolina Power & Light Co. (the licensee) for a two-month extension of the submittal date for the H. B. Robinson Unit No. 2 ECCS evaluation. The request for extension is signed under oath and states the reasons why the evaluation will not be complete and the time necessary to complete it. The licensee is authorized by Facility Operating License No. DPR-23 to operate the H. B. Robinson Unit No. 2 located in Hartsville, Darlington County, South Carolina, at steady-state power levels up to 2200 MWt.

Carolina Power & Light Co. states that the architect engineering firm, Ebasco, will be several weeks late in providing input information for the reactor vendor to use in his evaluation model. Therefore, the results of the evaluation from the reactor vendor will be delayed beyond the original mid-July schedule and upon receipt of the completed ECCS evaluation, Carolina Power & Light states it must review and prepare proposed Technical Specifications.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR § 50.46(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing, USAEC—Regulation, Washington, D.C. 20545, not later than July 25, 1974.

A copy of the request for extension dated June 19, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW. Washington, D.C., and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina.

Dated at Bethesda, Maryland, this 5th day of July, 1974.

For the Atomic Energy Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch #3, Directorate of Licensing.

[FR Doc.74-15892 Filed 7-10-74;8:45 am]

[Docket No. 50-10]

COMMONWEALTH EDISON CO.

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Request for Extension

As required by 10 CFR 50.46(a), certain licensees and applicants must submit, consist with 10 CFR 50.46(a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Commonwealth Edison Co. (the licensee) for a nine-month extension of the submittal date for the Dresden 1 ECCS evaluation. The request for extension is accompanied by affidavits outlining the reasons why the evaluation will not be complete and the time necessary to complete it. The licensee is authorized by Facility Operating License No. DPR-2 to operate the Dresden 1 facility located in Grundy County, Illinois, at steady-state power levels up to 700 MWt.

Commonwealth Edison Co. states that the reactor vendor will provide the evaluations to the Commonwealth Edison Co. no earlier than February 1975, and that, upon receipt of the completed ECCS evaluation, it must review the analyses and develop appropriate Technical Specification changes.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR § 50.46(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing, USAEC—Regulation, Washington, D.C. 20545, not later than July 25, 1974.

A copy of the request for extension dated June 20, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW. Washington, D.C.

Dated at Bethesda, Maryland, this 5th day of July, 1974.

For the Atomic Energy Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch #2, Directorate of Licensing.

[FR Doc.74-15889 Filed 7-10-74;8:45 am]

[Docket Nos. 50-254, 50-265]

COMMONWEALTH EDISON CO.

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Request for Extension

As required by 10 CFR 50.46(a), certain licensees and applicants must submit, consistent with 10 CFR 50.46(a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Commonwealth Edison Co. (the licensee) for a two (2) month extension of the submittal date for the Quad Cities Units 1 and 2 ECCS evaluation. The request for extension is accompanied by an affidavit outlining the reasons why the evaluation will not be complete and the minimum time necessary to complete it. The licensee is authorized by Facility Operating License Nos. DPR-29 and DPR-30 to operate the Quad Cities Units 1 and 2 located in Cordova, Illinois, at steady-state power levels up to 2511 MWt.

Commonwealth Edison Co. states that the reactor vendor will provide the evaluations to the Commonwealth Edison Co. no earlier than July 15, 1974, and that, upon receipt of the completed ECCS evaluation, it must review the results of the evaluation and develop appropriate Technical Specification changes.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR 50.46(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing, USAEC—Regulation, Washington, D.C. 20545, not later than July 25, 1974.

A copy of the request for extension dated June 20, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Moline Public Library, 504-17th Street, Moline, Illinois 61265.

Dated at Bethesda, Maryland this 5th day of July, 1974.

For the Atomic Energy Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Directorate of Licensing.

[FR Doc.74-15893 Filed 7-10-74;8:45 am]

[Docket Nos. 50-237, 50-249]

COMMONWEALTH EDISON CO.

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Request for Extension

As required by 10 CFR 50.46(a), certain licensees and applicants must submit, consistent with 10 CFR 50.46(a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Commonwealth Edison Co. (the licensee) for a two month extension of the submittal date for the Dresden 2 and 3 ECCS evaluation. The request for extension is accompanied by an affidavit outlining the reasons why the evaluation will not be complete and the time necessary to complete it. The licensee is authorized by Facility Operating License Nos. DPR-19 and DPR-25 to operate the Dresden 2 and 3 facilities located in Grundy County, Illinois, at steady-state power levels up to 2527 MWt.

Commonwealth Edison Co. states that the reactor vendor will provide the evaluations to the Commonwealth Edison Co. no earlier than July 15, 1974, and that, upon receipt of the completed ECCS evaluation, it must review the results of the analyses and develop appropriate Technical Specification changes.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR 50.46(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing, USAEC—Regulation, Washington, D.C. 20545, not later than July 25, 1974.

A copy of the request for extension dated June 20, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Dated at Bethesda, Maryland this 5th day of July, 1974.

For the Atomic Energy Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Directorate of Licensing.

[FR Doc.74-15896 Filed 7-10-74;8:45 am]

[Docket Nos. 50-295, 304]

COMMONWEALTH EDISON CO.

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Request for Extension

As required by 10 CFR 50.46(a), certain licensees and applicants must submit, consistent with 10 CFR 50.46(a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Commonwealth Edison Co. (the licensee) for a two-month extension of the submittal date for the Zion Station, Units 1 and 2 ECCS evaluation. The request for extension is accompanied by affidavits outlining the reasons why the evaluation will not be complete and the minimum time necessary to complete it. The licensee is authorized by Facility Operating License Nos. DPR-39 and DPR-48 to operate the Zion Station, Units 1 and 2 located in Zion, Lake County, Illinois, at steady-state power levels up to 2760 MWt.

Commonwealth Edison Co. states that the reactor vendor will provide the evaluations to the Commonwealth Edison Co. no earlier than July 18, 1974, and that, upon receipt of the completed ECCS evaluation, it must review the results of the analyses and develop appropriate Technical Specification changes.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR 50.46(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing, USAEC—Regulation, Washington, D.C. 20545, not later than July 25, 1974.

A copy of the request for extension dated June 20, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Dated at Bethesda, Maryland, this 5th day of July, 1974.

For the Atomic Energy Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch #1, Directorate of Licensing.

[FR Doc.74-15883 Filed 7-10-74;8:45 am]

[Docket No. 50-247]

CONSOLIDATED EDISON CO.

Emergency Core Cooling System Performance; Request for Exemption

As required by 10 CFR 50.46(a)(2), certain licensees must achieve compliance with acceptance criteria for emergency core cooling systems (ECCS) published in Appendix K to 10 CFR Part 50, by August 5, 1974, unless either (1) an extension of time for submission of the required ECCS performance evaluation has been approved by the Director of Regulation pursuant to 10 CFR 50.46(a)(2)(iii), or (2) an exemption from the operating requirements of 10 CFR 50.46(a)(2)(iv) has been granted by the Commission for good cause shown. As required by § 50.46(a)(2)(vi), notice is hereby given that the Commission has received and is considering a request from Consolidated Edison Co. for an exemption from the operating requirements of § 50.46 for Indian Point Station, Unit No. 2, until September 30, 1974. (The Director of Regulation is separately publishing notice of receipt and consideration of a request from Consolidated Edison Co. for an extension until August 30, 1974 of the submittal date for the Indian Point Station, Unit No. 2 ECCS evaluation). The licensee is authorized by Facility Operating License No. DPR-26 to operate the facility located in Westchester County, New York at steady-state power levels up to 2758 megawatts thermal.

In support of its request for an exemption, Consolidated Edison Co. states that the ECCS evaluation required by § 50.46 has not yet been completed and that therefore, the Company is not yet certain whether operating limitations will be required to bring operation of the Indian Point 2 Reactor into conformity with § 50.46. The request further states that "although a proposed power reduction resulting from the completed evaluation is a mere possibility, Consolidated Edison considers this request for an exemption to be a prudent action in the public interest." The request is accompanied by the supporting affidavits of William J. Cahill, a Vice President of the Company and of Stephen B. Bram, Chief Generation Planning Engineer of Consolidated Edison Co.

The request may be granted upon the findings that good cause has been shown, that it would be in the public interest to allow the licensee a specified additional period of time within which to alter the operation of the facility in the manner required by § 50.46(a)(2)(iv), and that there is reasonable assurance that the granting of the exemption will not adversely affect the health and safety of the public. As an alternative to the present grant or denial of the specific relief requested, the Commission may also consider declining to act on the request at this time, without prejudice to the resubmittal of an exemption request concurrently with the ECCS evaluation. In the event the Commission determines to follow this course, the order may also provide that, if a request for exemption is resubmitted along with the ECCS evaluation, compliance with the operating requirements of § 50.46 will not be required until the Commission has ruled upon the request or forty-five days have elapsed, whichever shall occur first.

The Commission invites the submission of views and comments by interested persons concerning the action to be taken on the request for exemption. Such views and comments should be submitted in writing, addressed to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than July 24, 1974. Pursuant to 10 CFR § 50.46(a)(2)(vi), the Director of Regulation shall submit his views on the requested exemption not later than July 29, 1974.

A copy of the request for exemption dated June 20, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Hendrik Hudson Free Library, 31 Albany Post Road, Montrose, New York 10548.

Dated at Washington, D.C. this 8th day of July, 1974.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74-15875 Filed 7-10-74;8:45 am]

[Docket No. 50-255]

CONSUMERS POWER CO.

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Request for Extension

As required by 10 CFR 50.46(a), certain licensees and applicants must submit, consistent with 10 CFR 50.46(a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Consumers Power Co. (the licensee) for an extension until November 4, 1974 of the submittal date for the Palisades Plant ECCS evaluation. The request for extension is accompanied by affidavits outlining the reasons why the evaluation will not be complete and the minimum time necessary to complete it. The licensee is authorized by Facility Operating License No. DPR-20 to operate the Palisades Plant located in Covert Township, Van Buren County, Michigan at steady-state power levels up to 2200 MWt.

Consumers Power Co. states that the reactor vendor will provide the evaluations to the Consumers Power Co. no earlier than October 3, 1974. Upon receipt of this evaluation Consumers Power states it will require one month to complete the in-depth analysis necessary to formulate any proposed Technical Specification changes and/or license amendments.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR 50.46(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing, USAEC—Regulation, Washington, D.C. 20545, not later than July 25, 1974.

A copy of the request for extension dated June 18, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

Dated at Bethesda, Maryland this 5th day of July, 1974.

For the Atomic Energy Commission.

ROBERT A. PURLE,
Chief, Operating Reactors Branch #1, Directorate of Licensing.

[FR Doc.74-15884 Filed 7-10-74;8:45 am]

[Docket No. 50-315]

INDIANA & MICHIGAN ELECTRIC CO. AND INDIANA & MICHIGAN POWER CO.

Acceptance Criteria for Emergency Core Cooling Systems for Light Water Cooled Nuclear Power Reactors; Request for Extension

As required by 10 CFR 50.46(a), certain licensees and applicants must submit, consistent with 10 CFR 50.46(a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Indiana & Michigan Power Co. for an extension until September 16, 1974, of the submittal date for the Donald C. Cook Nuclear Plant, Unit 1, ECCS evaluation. The request for extension is accompanied by an affidavit outlining the reasons why the evaluation is not complete and the minimum time necessary to complete it. The plant, presently under construction in Berrien County, Michigan, is scheduled for fuel-loading in September 1974.

Indiana & Michigan Power Co. (I&M) states that the reactor vendor will provide the evaluations to I&M no earlier than July 16, 1974, and that administrative controls contained in the proposed Technical Specifications require that the Plant Nuclear Safety Review Committee and the Nuclear Safety and Design Review Committee review proposed changes to the Technical Specifications. I&M has requested the extension to complete an in-depth review and to prepare the formal license submittal.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR 50.40(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing, Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545 not later than July 25, 1974.

A copy of the request for extension dated June 20, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the St. Joseph Public Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Bethesda, Maryland, this 5th day of July 1974.

For the Atomic Energy Commission.

KARL KNIEL,
Chief, Light Water Reactors Branch 2-2, Directorate of Licensing.

[FR Doc.74-15886 Filed 7-10-74;8:45 am]

[Docket No. 50-331]

IOWA ELECTRIC LIGHT AND POWER CO.

Emergency Core Cooling System Performance; Request for Exemption

As required by 10 CFR 50.46(a)(2), certain licensees must achieve compliance with acceptance criteria for emergency core cooling systems (ECCS) published in Appendix K to 10 CFR Part 50, by August 5, 1974, unless either (1) an extension of time for submission of the required ECCS performance evaluation has been approved by the Director of Regulation pursuant to 10 CFR 50.46(a)(2)(iii), or (2) an exemption from the operating requirements of 10 CFR 50.46(a)(2)(iv) has been granted by the Commission for good cause shown. As required by § 60.46(a)(2)(vi), notice is hereby given that the Commission has received and is considering a request from Iowa Electric Light and Power Co. for an exemption from the emergency core cooling system operating requirements of § 50.46(a)(2)(iv) for the Duane Arnold Energy Center until October 3, 1974. (The Director of Regulation is separately publishing notice of receipt and consideration of a request from Iowa Electric Light and Power Co. for an extension until October 3, 1974 of the submitttal date for the Duane Arnold Energy Center ECCS evaluation). The licensee is authorized by Facility Operating License No. DPR-49 to operate the facility located in Fayette Township, Linn County, Iowa at steady-state power levels up to 1593 megawatts thermal.

In support of its request for an exemption from the schedule prescribed by § 50.46(a)(2)(vi), Iowa Electric Light and Power Co. states that it has not yet received the ECCS evaluation from the vendor of the reactor; that it does not expect the vendor to be able to supply the ECCS evaluation until July 15, 1974; and that further review that must be accomplished by Iowa Electric Light and Power Co. has formed the basis of the Company's request for an extension of time within which to submit the information required by § 50.46(a)(2)(ii). The Company further states that any proposed technical specifications or license amendments submitted before the end of the requested extension would be incomplete and tentative. Accordingly the Company has requested that if its request for an extension of time for the ECCS evaluation submittal is denied in whole or in part, it be granted an exemption from the operating requirements of § 50.46 for a period extending to October 3, 1974.

The request may be granted upon the findings that good cause has been shown, that it would be in the public interest to allow the licensee a specified additional period of time within which to alter the operation of the facility in the manner required by § 50.46(a)(2)(iv), and that there is reasonable assurance that the granting of the exemption will not adversely affect the health and safety of the public. As an alternative to the present grant or denial of the specific relief requested, the Commission may also consider declining to act on the request at this time, without prejudice to the submittal of an exemption request concurrently with the ECCS evaluation. In the event the Commission determines to follow this course, the order may also provide that, if a request for exemption is submitted along with the ECCS evaluation, compliance with the operating requirements of § 50.46 will not be required until the Commission has ruled upon the request or forty-five days have elapsed, whichever shall occur first.

The Commission invites the submission of views and comments by interested persons concerning the action to be taken on the request for exemption. Such views and comments should be submitted in writing, addressed to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than July 24, 1974. Pursuant to 10 CFR 50.46(a)(2)(vi), the Director of Regulation shall submit his views on the requested exemption not later than July 29, 1974.

A copy of the request for exemption dated June 20, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Cedar Rapids Public Library, 428 Third Avenue, SE., Cedar Rapids, Iowa 52401.

Dated at Washington, D.C. this 8th day of July, 1974.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74-15877 Filed 7-10-74;8:45 am]

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Request for Extension

As required by 10 CFR 50.46 (a), certain licensees and applicants must submit, consistent with 10 CFR 50.46 (a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Maine Yankee Atomic Power Co. (the licensee) for a ninety-day (90) extension of the submittal date for the Maine Yankee Plant ECCS evaluation. The request for extension is accompanied by an affidavit outlining the reasons why the evaluation will not be complete and the minimum time necessary to complete it. The licensee is authorized by Facility Operating License No. DPR-36 to operate the Maine Yankee Plant located in Lincoln County, Maine, at steady-state power levels up to 2440 MWt.

Maine Yankee Atomic Power Company provides an affidavit from the vendor that estimates their delay in completing the ECCS analysis at 60 days. An additional 30-day extension is requested to allow Maine Yankee Atomic Power Co. time to complete their review of the analyses.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR 50.46(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing, USAEC—Regulation, Washington, D.C. 20545, not later than July 25, 1974.

A copy of the request for extension dated June 17, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Wiscasset Public Library Association, High Street, Wiscasset, Maine 94578.

Dated at Bethesda, Maryland, this 5th day of July, 1974.

For the Atomic Energy Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch No. 1, Directorate of Licensing.

[FR Doc.74-15880 Filed 7-10-74;8:45 am]

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Emergency Core Cooling System Performance; Request for Exemption

As required by 10 CFR 50.46(a)(2), certain licensees must achieve compliance with acceptance criteria for emergency core cooling systems (ECCS) published in Appendix K to 10 CFR Part 50, by August 5, 1974, unless either (1) an extension of time for submission of the required ECCS performance evaluation has been approved by the Director of Regulation pursuant to 10 CFR 50.46(a)(2)(iii), or (2) an exemption from the operating requirements of 10 CFR 50.46(a)(2)(iv) has been granted by the Commission for good cause shown. As required by § 50.46(a)(2)(vi), notice is hereby given that the Commission has received and is considering a request from the Nebraska Public Power District for an exemption from the emergency core cooling system operating requirements of § 50.46(a)(2)(iv) for the Cooper Nuclear Station until June 1, 1975. (The Director of Regulation is separately publishing notice of receipt and consideration of a request from Nebraska Public Power District for an extension until September 2, 1974 of the submittal date for the Cooper Nuclear Station ECCS evaluation). The licensee is authorized by Facility Operating License No. DPR-46 to operate the facility located in Nemaha County, Nebraska at steady-state power levels up to 2381 megawatts thermal.

In support of its request for an exemption the Nebraska Public Power District states that it anticipates a derating of approximately 10% will be necessary to meet the ECCS requirements of § 50.46 unless equipment modifications of the low pressure coolant injection system (LPCI) are effected; that the reactor vendor (General Electric) estimates that finalized drawings for these modifications will be available approximately January 1, 1975; that the balance of engineering effort and installation of that portion of the modification which can be installed during plant operation can be done in approximately five months after receipt of the drawing changes; and that the plant modification could be completed during a schedule outage during early June, 1975. The request is supported by the affidavit of Jay M. Pilant, Director of Licensing and Quality Assurance for Nebraska Public Power District which sets forth eight reasons, including the need for power from the facility and the low likelihood of a Design Basis Loss-of-Coolant Accident durthe period of the requested exemption, which the District believes are sufficient justification for the request.

The request may be granted upon the findings that good cause has been shown, that it would be in the public interest to allow the licensee a specified additional period of time within which to alter the operation of the facility in the manner required by § 50.46(a)(2)(iv), and that there is reasonable assurance that the granting of the exemption will not adversely affect the health and safety of the public. As an alternative to the present grant or denial of the specific relief requested, the Commission may also consider declining to act on the request at this time, without prejudice to the submittal of an exemption request concurrently with the ECCS evaluation. In the event the Commission determines to follow this course, the order may also provide that, if a request for exemption is submitted along with the ECCS evaluation, compliance with the operating requirements of § 50.46 will not be required until the Commission has ruled upon the request or forty-five days have elapsed, whichever shall occur first.

The Commission invites the submission of views and comments by interested persons concerning the action to be taken on the request for exemption. Such views and comments should be submitted in writing, addressed to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than July 24, 1974. Pursuant to 10 CFR 50.46(a)(2)(vi), the Director of Regulation shall submit his views on the requested exemption not later than July 29, 1974.

A copy of the request for exemption dated June 21, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Auburn Public Library, 1118 15th Street, Auburn, Nebraska 68305.

Dated at Washington, D.C., this 8th day of July, 1974.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74-15876 Filed 7-10-74;8:45 am]

[Docket No. 50-245]

NORTHEAST NUCLEAR ENERGY CO.

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Request for Extension

As required by 10 CFR § 50.46(a), certain licensees and applicants must submit, consistent with 10 CFR 50.46(a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Connecticut Light and Power Co., The Hartford Electric Light Co., Western Massachusetts Electric Co., and Northeast Nuclear Energy Co. (the licensees) for a ninety-one (91) day extension of the submittal date for the Millstone Unit 1 ECCS evaluation. The request for extension is accompanied by affidavits outlining the reasons why the evaluation will not be complete and the time necessary to complete it. The licensees are authorized by Facility Operating License No. DPR-21 to operate the Millstone Nuclear Power Station Unit 1 located in Waterford, Connecticut at Steady-state power levels up to 2011 MWt.

The licensees state that the reactor vendor will provide the evaluations to the Northeast Nuclear Energy Co. no earlier than July 15-18, 1974, and that, upon receipt of the completed ECCS evaluation, it must review the information before submitting it to the Commission. The licensees further state that the extension is required for two reasons. First to allow for the possibility of a delay by the reactor vendor in providing the information, and second, to allow the licensees adequate time to review and evaluate the reactor vendor provided information. The licensees point out that the facility is scheduled to be shutdown for refueling in September 1974 and startup in November 1974, therefore reactor operation will involve about 30 days of the requested 91 day extension.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR 50.46(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and com-

ments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing, USAEC—Regulation, Washington, D.C. 20545, not later than July 25, 1974.

A copy of the request for extension dated June 20, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

Dated at Bethesda, Maryland this 5th day of July, 1974.

For the Atomic Energy Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Directorate of Licensing.

[FR Doc.74-15895 Filed 7-10-74;8:45 am]

[Docket No. 50-263]

NORTHERN STATES POWER CO.

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Request for Extension

As required by 10 CFR 50.46(a), certain licensees and applicants must submit, consistent with 10 CFR 50.46(a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Northern States Power Co. (the licensee) for an extension through September 16, 1974, of the submittal date for the Monticello ECCS evaluation. The request for extension is accompanied by an affidavit outlining the reasons why the evaluation is not complete and the minimum time necessary to complete it. The licensee is authorized by Facility Operating License No. DPR-22 to operate the Monticello Plant located in Wright County, Minnesota, at steady-state power levels up to 1670 MWt.

Northern States Power Co. states that the reactor vendor will provide the evaluations to the Northern States Power Co. no earlier than July 18, 1974, and that, upon receipt of the completed ECCS evaluation, it must review proposed changes to the Technical Specification or operating license; the station's Operations Committee is required to review and approve proposed Technical Specification revisions; and the company's Safety Audit Committee is required to review proposed Technical Specification revisions. Northern States Power Co. states that upon receipt of the vendor's evaluation approximately 60 days is required in order to provide time for an in-depth review and to prepare the formal license submittal.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR 50.46(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing, USAEC—Regulation, Washington, D.C. 20545, not later than July 25, 1974.

A copy of the request for extension dated June 14, 1974 and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Environmental Library of Minnesota, 1222 S.E. 4th Street, Minneapolis, Minnesota 55414.

Dated at Bethesda, Maryland, this 5th day of July, 1974.

For the Atomic Energy Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Directorate of Licensing.

[FR Doc.74-15897 Filed 7-10-74;8:45 am]

[Docket No. 50-282, 306]

NORTHERN STATES POWER CO.

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Request for Extension

As required by 10 CFR § 50.46(a), certain licensees and applicants must submit, consistent with 10 CFR 50.46(a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Northern States Power Co. for an extension until October 3, 1974, of the submittal date for the Prairie Island Nuclear Generating Plant, Units 1 and 2 ECCS evaluation. The request for extension is accompanied by an affidavit outlining the reasons why the evaluation is not complete and the minimum time necessary to complete it. The licensees are authorized by Facility Operating License No. DPR-42 to operate Unit 1, located in Goodhue County, Minnesota at steady-state power levels up to 1650 megawatts thermal. Unit 2 is presently scheduled for fuel loading in August 1974.

Northern States Power Co. (NSP) states that the reactor vendor will provide the evaluations to NSP no earlier than August 4, 1974, and that administrative controls contained in the Prairie Island Technical Specifications require that NSP's Operations Committee and the Safety Audit Committee review proposed changes to the Technical Specifications or operating license. NSP requests the extension until October 3 in order that it can complete the committee review process and prepare the formal license submittal.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR 50.46(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing, Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545 not later than July 25, 1974.

A copy of the request for extension dated June 18, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Environmental Library of Minnesota, 1222 S.E. 4th Street, Minneapolis, Minnesota 55414.

Dated at Bethesda, Maryland, this 5th day of July 1974.

For the Atomic Energy Commission.

KARL KNIEL,
Chief, Light Water Reactors Branch 2-2, Director of Licensing.

[FR Doc.74-15882 Filed 7-10-74;8:45 am]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Request for Extension

As required by 10 CFR 50.46(a), certain licensees and applicants must submit, consistent with 10 CFR 50.46(a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Omaha Public Power District (the licensee) for an extension of the submittal date for the Fort Calhoun Station ECCS evaluation until October 4, 1974. The request for extension is accompanied by affidavits outlining the reasons why the evaluation is not complete and the minimum time necessary to complete it. The licensee is authorized by Facility Operating License No. DPR-40 to operate the Fort Calhoun Station Unit No. 1 located in Washington County, Nebraska, at steady-state power levels up to 1420 MWt.

Omaha Public Power District states that underlying analyses from the vendor will be submitted by October 4,

1974, and at that time it will be able to complete and submit its portion of the ECCS evaluation and proposed technical specification change or license amendment documents.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR 50.46(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing, USAEC—Regulation, Washington, D.C. 20545, not later than July 25, 1974.

A copy of the request for extension dated June 20, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebraska 68008.

Dated at Bethesda, Maryland, this 5th day of July, 1974.

For the Atomic Energy Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch #3, Directorate of Licensing.

[FR Doc.74-15887 Filed 7-10-74;8:45 am]

[Docket No. 50-133]

PACIFIC GAS AND ELECTRIC CO.

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Request for Extension

As required by 10 CFR 50.46(a), certain licensees and applicants must submit, consistent with 10 CFR 50.46(a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Pacific Gas and Electric Co. (the licensee) for an extension until March 31, 1975, of the submittal date for the Humboldt Bay Unit 3 ECCS evaluation. The request for extension is accompanied by an affidavit outlining the reasons why the evaluation will not be complete and the minimum time necessary to complete it. The licensee is authorized by Facility Operating License No. DPR-7 to operate the Humboldt Bay Unit 3 facility located near Eureka, California, at steady-state power levels up to 240 MWt.

Pacific Gas and Electric Co. states that the reactor vendor will provide the blowdown evaluations to them no earlier than January 1975 and that the fuel heatup evaluations will be available to the licensee no earlier than February 1975 from one fuel supplier and March 1975 from the other fuel supplier. PG&E states that the blowdown evaluation cannot be completed earlier by the reactor vendor because the blowdown model must be substantially modified for Humboldt Bay Unit 3 and may require separate AEC approval. PG&E states that the heatup transient models must be substantially modified for Humboldt Bay Unit 3 and may require separate AEC approval for each fuel supplier.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR 50.46(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing, USAEC—Regulation, Washington, D.C. 20545, not later than July 25, 1974.

A copy of the request for extension dated June 21, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.

Dated at Bethesda, Maryland, this 5th day of July, 1974.

For the Atomic Energy Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch #2, Directorate of Licensing.

[FR Doc.74-15891 Filed 7-10-74;8:45 am]

[Docket No. 50-244]

ROCHESTER GAS AND ELECTRIC CORP.

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Request for Extension

As required by 10 CFR 50.46(a), certain licensees and applicants must submit, consistent with 10 CFR § 50.46(a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Rochester Gas and Electric Corp. (the licensee) for an extension until August 30, 1974, of the submittal date for the R. E. Ginna ECCS evaluation. The request for extension is accompanied by affidavits outlining the reasons why the evaluation will not be complete and the minimum time necessary to complete it. The licensee is authorized by Facility Operating License No. DPR-18 to operate the R. E. Ginna Nuclear Power Plant, Unit No. 1 located in the Town of Ontario, Wayne County, New York at steady-state power levels up to 1520 MWt.

Rochester Gas and Electric Corp. states that the reactor vendor will provide the evaluations to the Rochester Gas and Electric Corp. no earlier than July 18, 1974, and that, upon receipt of the completed ECCS evaluation, it must perform a review to assure that the Westinghouse analyses reflect facility and fuel features peculiar to Ginna, and prepare proposed Technical Specification changes and amendments.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR 50.46(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing, USAEC—Regulation, Washington, D.C. 20545, not later than July 25, 1974.

A copy of the request for extension dated June 20, 1974 and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Lyons Public Library, 67 Canal Street, Lyons, New York 14489.

Dated at Bethesda, Maryland, this 5th day of July, 1974.

For the Atomic Energy Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch #1, Directorate of Licensing.

[FR Doc.74-15885 Filed 7-10-74;8:45 am]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Request for Extension

As required by 10 CFR 50.46(a), certain licensees and applicants must submit, consistent with 10 CFR 50.46(a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Vermont Yankee Nuclear Power Corp. (the licensee) for a ninety (90) day extension of the submittal date for the Vermont Yankee ECCS evaluation. The licensee is authorized by Facility Operating License No. DPR-28 to operate the Vermont Yankee Nuclear Power Station located near Vernon, Vermont, at steady-state power levels up to 1593 MWt.

Vermont Yankee Nuclear Power Corp. states that preliminary information from the reactor vendor indicates that operat-

ing restrictions reducing reactor output to approximately 85 percent of rated power will be necessary for the Vermont Yankee core as presently loaded to meet the new final ECCS acceptance criteria. The affidavit further states that at present, the reactor is administratively derated to and operating at 80 percent of rated power and will operate in this manner until refueling in November 1974 and that based on the analyses for the proposed fuel loading which indicates that the new final ECCS acceptance criteria will be satisfied at power levels near 100 percent of rated power, it is preparing a request to modify and improve the Vermont Yankee ECCS which will reduce the peak clad temperatures calculated in accordance with the new ECCS criteria.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR 50.46(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing, USAEC—Regulation, Washington, D.C. 20545, not later than July 25, 1974.

A copy of the request for extension dated June 17, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Dated at Bethesda, Maryland this 5th day of July, 1974.

For the Atomic Energy Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch #2, Directorate of Licensing.

[FR Doc.74-15894 Filed 7-10-74;8:45 am]

[Docket Nos. 50-266, 50-301]

WISCONSIN MICHIGAN AND WISCONSIN ELECTRIC POWER CO.

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Request for Extension

As required by 10 CFR 50.46(a), certain licensees and applicants must submit, consistent with 10 CFR 50.46(a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Wisconsin Michigan and Wisconsin Electric Power Co. (the licensee) for a forty-five (45) day extension of the submittal date for the Point Beach, Units 1 and 2 ECCS evaluation. The request for extension is accompanied by an affidavit outlining the reasons why the evaluation will not be complete and the minimum time necessary to complete it. The licensee is authorized by Facility Operating License Nos. DPR-24 and DPR-27 to operate the Point Beach, Units 1 and 2 located in the Town of Two Creek, Manitowoc County, Wisconsin, at steady-state power levels up to 1518 MWt.

Wisconsin Electric and Wisconsin Michigan Power Co. state that the reactor vendor will provide the ECCS analysis to them no earlier than mid July, 1974, and that, upon receipt of the completed ECCS analysis, it must accomplish its own review to determine the need for modifications to the Technical Specifications. The licensee further states that the Off-Site Review Committee will then be required to review any proposed Technical Specifications. Wisconsin Electric and Wisconsin Michigan Power Co. state that a 45-day extension is required in order to provide time for an adequate technical review of the ECCS analysis and any required modifications to the Technical Specifications.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR 50.46(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing, USAEC—Regulation, Washington, D.C. 20545, not later than July 25, 1974.

A copy of the request for extension dated June 20, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Manitowoc Public Library, 808 Hamilton Street, Manitowoc, Wisconsin 54220.

Dated at Bethesda, Maryland, this 5th day of July, 1974.

For the Atomic Energy Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Directorate of Licensing.

[FR Doc.74-15888 Filed 7-10-74;8:45 am]

[Docket No. 50-305]

WISCONSIN PUBLIC SERVICE CORP., ET AL.

Acceptance Criteria for Emergency Core Cooling Systems for Light Water-Cooled Nuclear Power Reactors; Request for Extension

In the matter of Wisconsin Public Service Corp., Wisconsin Power and Light Co. and Madison Gas and Electric Co.

As required by 10 CFR § 50.46(a), certain licensees and applicants must submit, consistent with 10 CFR 50.46(a)(2)(ii), an evaluation of the performance of emergency core cooling systems (ECCS) by August 5, 1974, unless an extension thereto has been obtained from the Director of Regulation pursuant to § 50.46(a)(2)(iii). As required by § 50.46(a)(2)(iii), notice is hereby given that the Director of Regulation has received and is considering a request from the Wisconsin Public Service Corp. for a thirty-one (31) day extension of the submittal date for the Kewaunee Nuclear Power Plant ECCS evaluation. The request for extension is signed under oath and states the reasons why the evaluation is not complete and the minimum time necessary to complete it. The licensees are authorized by Facility Operating License No. DPR-43 to operate the facility located in Kewaunee County, Wisconsin at steady state power levels up to 1650 megawatts thermal.

Wisconsin Public Service Corp. states that the reactor vendor will provide the evaluation to the Wisconsin Public Service Corp. no earlier than July 19, 1974, and that, upon receipt of the completed ECCS evaluation, it must evaluate within its own organization the implications and technical specification reflections. The licensee further states that the Company's Nuclear Safety and Audit Committee must review the final submittal and procedures will have to be changed as required. Wisconsin Public Service Corp. states that a 31-day extension is required to make this submittal.

The extension may be granted upon a finding that good cause has been shown for granting of the extension. The Director of Regulation will consider and issue a determination with respect to the request for extension as required by 10 CFR 50.46(a)(2)(iii). In that connection, the Director of Regulation invites the submission of views and comments by any interested persons. Such views and comments should be submitted in writing, addressed to the Director of Licensing, Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545 not later than July 25, 1974.

A copy of the request for extension dated June 20, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Kewaunee Public Library, 314 Milwaukee Street, Kewaunee, Wisconsin.

Dated at Bethesda, Maryland, this 5th day of July, 1974.

For the Atomic Energy Commission.

KARL KNIEL,
Chief, Light Water Reactors Branch 2-2, Directorate of Licensing.

[FR Doc.74-15881 Filed 7-10-74;8:45 am]

REGULATORY GUIDES

Notice of Issuance and Availability

The Atomic Energy Commission has issued a new guide in its Regulatory

Guide series. This series has been developed to describe and make available to the public methods acceptable to the AEC Regulatory staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The new guide is in Division 1, "Power Reactor Guides." Regulatory Guide 1.78, "Assumptions for Evaluating the Habitability of a Nuclear Power Plant Control Room During a Postulated Hazardous Chemical Release," describes acceptable bases for assessing the habitability of the control room during and after a postulated external release of hazardous chemicals.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Comments and suggestions in connection with (1) items for inclusion in guides currently being developed (listed below) or (2) improvements in any published guides are encouraged and should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff. Requests for single copies of the issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

Other Division 1 Regulatory Guides currently being developed include the following:

Tornado Design Classification
Availability of Electric Power Sources
Requirements for Instrumentation to Assess Nuclear Power Plant Conditions During and Following an Accident for Water-Cooled Reactors
Isolation of Low Pressure Systems Connected to the Reactor Coolant Pressure Boundary
Requirements for Collection, Storage, and Maintenance of Nuclear Power Plant Quality Assurance Records
Requirements for Assessing Ability of Material Underneath Nuclear Power Plant Foundations to Withstand Safe Shutdown Earthquake
Fire Protection Criteria for Nuclear Power Plants
Protective Coatings for Light Water Nuclear Reactor Containment Facilities
Inservice Surveillance of Grouted Prestressing Tendons
Seismic Input Motion to Uncoupled Structural Model
Primary Reactor Containment (Concrete) Design and Analysis
Quality Assurance Requirements for Installation, Inspection, and Testing of Mechanical Equipment and Systems
Quality Assurance Requirements for Installation, Inspection and Testing of Structural Concrete and Structural Steel
Fracture Toughness Requirements for Vessels Under Overstress Conditions
Material Limitations for Component Supports
Protection Against Postulated Events and Accidents Outside of Containment
Requirements for Auditing of Quality Assurance Programs for Nuclear Power Plants
Assumptions Used for Evaluating the Potential Radiological Consequences of a Gas Holdup Tank Failure in a Boiling Water Reactor
Quality Assurance Requirements for Procurement of Equipment, Materials, and Services
Quality Assurance Requirements for Lifting Equipment
Maintenance and Testing of Batteries
Qualification of Class I Electrical Equipment
Type Tests for Class IE Cables, Connections, and Field Splices for Nuclear Power Plants
Seismic Qualification of Class I Electric Equipment
Fracture Toughness Requirements for Materials for Class 2 and 3 Components
Maintenance of Water Purity in PWR Secondary Systems
Main Steam Line Sealing System Design Guidelines for Boiling Water Reactors
Criteria for Heat-up and Cool-down Procedures
Effects of Residual Elements on Predicted Radiation Damage
Component Design Criteria for Elevated Temperature Reactors
Fuel Oil Supplies for Standby Diesel-Generators
Assumptions Used for Evaluating the Potential Radiological Consequences of a Liquid Radioactive Waste System Accident
Surveillance and Examination and Testing of Irradiated Fuel Rods
Elevated Temperature Inservice Surveillance Tests for HTGR Plants
Design Load Combinations for Component Supports
Requirements for Containment Isolation
Probable Maximum Storm Surge Flooding on Lakes and Sea Shores
Requirements for Concreate Reactor Vessels and Containments (ASME Section III Division 2)
Instrument Span and Trip Setting
Failed Fuel Detection System for Nuclear Power Plants
Code Case Acceptability—ASME Section III Nonmetallic Materials
Design, Qualification Test and Installation Requirements for Class 2 and 3 Safety-Related Pumps
Seismic Response Combination of Modes and Spatial Components
Analysis of Seismic Recorded Data
Protection of Nuclear Power Plant Control Room Operators Against an Onsite Chlorine Release
Self-Operated and Power Operated Safety-Related Valves Functional Specification
Nuclear Power Plant Environmental Characteristics for Designated Sites
Evaluation of Explosions Postulated to Occur on Transportation Routes Near Nuclear Power Plant Sites

(5 U.S.C. 522(a))

Dated at Rockville, Maryland this 1st day of July 1974.

For the Atomic Energy Commission.

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.74-15878 Filed 7-10-74;8:45 am]

DUKE POWER CO.

Order Extending Completion Date

Duke Power Company is the holder of Provisional Construction Permit No. CPPR-35 issued by the Commission on November 6, 1967, for the construction of the Oconee Nuclear Station, Unit 3, a 2568 megawatt (thermal) pressurized water nuclear reactor presently under construction at the Company's site in Oconee County, South Carolina, approximately eight miles northeast of Seneca, South Carolina.

On May 14, 1974 the Company requested an extension of the completion date because construction of Unit 3 has been delayed due to (1) modification to high energy lines, (2) inspection and modification of reactor coolant pumps, and (3) materials shortage. The Director of Regulation having determined that this action involves no significant hazards consideration, and good cause having been shown, the bases for which are set forth in a staff evaluation, dated July 5, 1974.

It is hereby ordered, That the latest completion date for CPPR-35 is extended from June 30, 1974 to September 30, 1974.

Date of issuance: July 5, 1974.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.74-15802 Filed 7-10-74;8:45 am]

[Docket No. PRM-50-10]

STATE OF NEW JERSEY-NUCLEAR ENERGY COUNCIL

Petition for Rule Making

On May 6, 1974, the Atomic Energy Commission published in the FEDERAL REGISTER (39 FR 15900) a notice that the State of New Jersey through its Nuclear Energy Council, by letter dated March 27, 1974, has filed with the Commission a petition for rule making (PRM-50-10).

By letter of June 10, 1974, Commissioner David J. Bardin of the Department of Environmental Protection, State of New Jersey, has furnished additional information to clarify the scope and intent of the petition. The letter of June 10, 1974, includes a request that the Commission publish verbatim the paragraph identified as No. 2 in Commissioner Barber's letter of March 27 with a typographical error noted in Commissioner Barber's letter of April 16 corrected. Paragraph No. 2, as corrected, reads as follows:

2. The exclusion of the Class 9 accident from consideration in licensing procedures now in force shall be eliminated when new or novel siting or design considerations are involved, and due consideration shall be given to countermeasures for the Class 9 accident. "New or novel" is best defined by examples. Examples of this are, among others: offshore floating nuclear plants; new reactor types

such as the liquid metal fast breeder reactor (LMFBR) and high temperature gas reactor (HTGR); and metropolitan sites. The current exclusion is arbitrary and artificial. While the probability is extremely low, probability does not eliminate accidents and, in fact, admits to the possibility of occurrence. Consideration of this accident should gain public confidence and provide input information needed by State and local governments to develop conceptual and operational public-domain emergency plans up to and including evacuation. Analysis of this accident class will lead to better understanding and with knowledge, removal of reservations. By countermeasures is meant, by example, a core-catcher for which a literature albeit scanty exists. This request in no way implies extension to light water reactors at land sites in operation, under construction, in the licensing stage or planned. This recommendation applies to the future and new or novel conditions only.

The letter of June 10, 1974, also furnishes the following additional clarifying information:

Petitioner further wishes to state that this is not a request to classify the Class 9 accident as either credible or design basis and to require an analysis of this accident and potential countermeasures for each and every Application for a Construction Permit or Operating License which is docketed. Petitioner is seeking information on a generic basis, either through voluntary action or in accordance with rules of procedure which the AEC may promulgate permitting through accident-effects analysis the ability to adequately assess benefit vs. risk for new or novel designs and siting conditions. This information when viewed in light of the improbability for the Class 9 accident will permit the Petitioner and others concerned to make a more effective determination as to licensability.

Petitioner in the letter of Petition spoke to consideration of countermeasures and gave at least one example of potential countermeasures. This does not imply the potential for only a single countermeasure. For example, in addition to core catcher, countermeasures for a floating nuclear plant might include a properly designed totally enclosed breakwater and bottom seating of the facility or appropriate combinations of these approaches.

Dated at Germantown, Md. this 3d day of July 1974.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74-15800 Filed 7-10-74;8:45 am]

[Construction Permit Nos. CPPR-77, CPPR-78]

VIRGINIA ELECTRIC AND POWER CO. (NORTH ANNA POWER STATION; UNITS 1 AND 2)

Assignment of Members of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this proceeding:

Michael C. Farrar, Chairman
Dr. John H. Buck, Member
William C. Parler, Member

Dated: July 3, 1974.

ESTHER G. CUSATO,
Secretary to the Appeal Board.

[FR Doc.74-15801 Filed 7-10-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 25479; Order 74-7-25]

BRITISH AIRWAYS BOARD (BRITISH AIRWAYS)

Application for Renewal of Foreign Air Carrier Permit

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 5th day of July, 1974.

An application has been filed by the above-named foreign air carrier for renewal of its foreign air carrier permit[1] granting, inter alia, conditional stopover authority at Anchorage, Alaska to through passengers on scheduled flights operated over its polar route between points in the United Kingdom and points in Japan.[2]

At present, the subject permit allows passengers originally ticketed to be carried between a point in Japan and a point in the United Kingdom on a scheduled flight operated by the carrier between Japan and the United Kingdom to disembark at Anchorage; however, such stopover traffic must subsequently reembark on a scheduled flight of the carrier and be transported in accordance with the original routing as specified in the ticket.

Although British Airways did not request any amendment of its stopover authority, the Board recently issued an order to show cause which in part proposes to amend the permits of other foreign air carriers with similar stopover authority.[3] The amendments proposed in Order 74-6-3 would allow departure from stopover conditions in certain emergency situations, as specified by Board order or regulation. The permit amendments themselves would not be self-executing, but would rather be dependent upon a separate Board order or regulation implementing the permit amendment by specifying the types of emergency situations involved and the authority granted in such emergency situations. The particular emergency situations envisioned include mechanical failures which will require a substantial period of time to repair, medical emergencies, personal emergencies, and other emergencies beyond the control of the carrier. In such emergency situations, the aforementioned carriers request authority to (1) reembark at Anchorage and return to point of origin traffic which was originally ticketed to be carried between Japan and Europe, and (2) allow traffic to connect with other carriers proceeding either to the point of origin or to the originally ticketed point of destination of such traffic.

We proposed to amend British Airways' permit in order to maintain uniformity of stopover authority at Anchorage. Upon consideration of British Airways' application and all the relevant facts, we have decided to issue an order to show cause why the requested renewal and proposed amendment of the foreign air carrier permit in question should not be granted. In this regard, we tentatively find and conclude that the public interest requires the requested renewal and proposed amendment of this permit.

With respect to the request of the carrier for renewal of its permit, we make the following tentative findings and conclusions. The carrier presently operates two weekly round trips with B-747 aircraft and one with B-707 aircraft between London and Japan via Anchorage.[4] Additionally, British Airways has provided over 20 years of foreign air transportation services pursuant to permits issued by the Board. In issuing the present permit, the Board recently found the carrier to be fit, willing, and able to properly perform the requested foreign air transportation,[5] and we tentatively find that there have been no intervening circumstances affecting the carrier's ability to perform which would warrant a different finding at this time. Accordingly, we tentatively conclude that renewal of the subject foreign air carrier permit for a period of five years would be in the public interest.

With respect to the proposed amendment of this carrier's permit, the tentative findings and conclusions of Order 74-6-3, which concerns the other foreign air carriers who have stopover authority at Anchorage, are incorporated herein. As amended, the conditional stopover carrier's permit would read, in part, as follows (new matter emphasized):

The holder in providing service over segment 2 of this permit shall: Be limited (*except as may otherwise be authorized in emergency situations by Board order or regulation*) to disembarking at Anchorage * * *

Upon issuance of an order making final the tentative, findings, conclusions, and amendments contained herein, the Board will follow the procedures set forth in Order 74-6-3 with respect to the implementation of the permit amendments.

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[1] The permit formerly held by British Overseas Airways Corporation was approved by the President of the United States on September 26, 1968, and issued pursuant to Order 68-9-148, served September 30, 1968. It was transferred to British Airways pursuant to Orders 74-3-4, served March 4, 1974 and 74-4-17, served April 4, 1974.

[2] In addition to stopover authority, the permit held by British Airways authorizes the carrier to engage in foreign air transportation between points in the United Kingdom and the terminal point, Anchorage, Alaska.

[3] Order 74-6-3, June 3, 1974. While Air France, Japan Air Lines, Lufthansa and SAS requested amendment of their stopover authority, KLM and Sabena did not. Nevertheless, Order 74-6-3 proposed to amend the permits of all six carriers.

[4] International OAG, June, 1974.

[5] These findings are set forth in the Board's orders issuing the present permit. See footnote 1.

Interested persons will be given 20 days following this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If any evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing which cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered that:

1. All interested persons are directed to show cause why the Board should not make final the tentative findings and conclusions set forth and incorporated herein and why, subject to the approval of the President pursuant to section 801 of the Federal Aviation Act, the Board should not issue an order (1) renewing and amending the foreign air carrier permit held by British Airways Board in the manner set forth herein,* and (2) implementing the conditional stopover authority in the manner set forth herein;

2. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or permit amendments set forth and incorporated herein shall, within 20 days of the date of service of this order, file with the Board and serve upon all persons listed in paragraph 5 a statement of objections together with a summary of testimony, statistical data, or other evidence expected to be relied upon to support the stated objections;

3. If timely and properly supported objections are filed, full consideration will be accorded the matter and issues raised by the objections before further action is taken by the Board; †

4. In the even no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth and incorporated herein; and

5. A copy of this order shall be served upon British Airways Board, Compagnie Nationale Air France, Deutsche Lufthansa Aktiengesellschaft, Japan Air Lines Company, Ltd., KLM Royal Dutch Airlines, Societe Anonyme Belge d'Exploitation de la Navigation Aerienne (SABENA), and Scandinavian Airlines System.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-15901 Filed 7-10-74;8:45 am]

* The renewed permit would inherently authorize the commingling of certain "blind sector" traffic (Europe-Asia transit passengers not stopping over in Alaska) with traffic moving in foreign air transportation (the stopover traffic) and traffic carried in foreign transportation between the United Kingdom and Anchorage, and accordingly no additional authority under Part 216 of the regulations is required.

† All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

COMMISSION ON CIVIL RIGHTS

NEW YORK 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 New York State Advisory Committee (SAC) to this Commission will convene at 12:00 Noon on July 23, 1974, at the Ibero American Action League, Inc., 938 Clifford Avenue, Rochester, New York 14605.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to receive reports from Subcommittee members of interviews with City and County officials in connection with the SAC's public employment project.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 2, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-15903 Filed 7-10-74;8:45 am]

COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1974

Addition

Correction

In FR Doc. 74-14889 appearing on page 24047 in the issue for Friday, June 28, 1974, the headings should read as set forth above.

PROCUREMENT LIST 1974

Addition

Notice of proposed addition to Procurement List 1974, November 29, 1973 (38 FR 33038) was published in the FEDERAL REGISTER on October 26, 1973 (38 FR 29641).

Pursuant to the above notice the following commodities are added to Procurement List 1974.

COMMODITIES

Class 7510	*Price, each*
Binder, Looseleaf (IB):	
7510-782-2663	$0.82
7510-782-2664	1.02

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.74-15821 Filed 7-10-74;8:45 am]

PROCUREMENT LIST 1974

Addition

Notice of proposed addition to Procurement List 1974, November 29, 1973 (38 FR 33038) was published in the FEDERAL REGISTER on January 2, 1974 (39 FR 27).

Pursuant to the above notice the following commodity is added to Procurement List 1974.

COMMODITY

CLASS 7210	*PRICE, each*
Mattress (Cotton-Felt) (IB):	
7210-139-6538	$29.82

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.74-15820 Filed 7-10-74;8:45 am]

PROCUREMENT LIST 1974

Addition

Notice of proposed addition to Procurement List 1974, November 29, 1973 (38 FR 33038) was published in the FEDERAL REGISTER on April 5, 1974 (39 FR 12377).

Pursuant to the above notice the following service is added to Procurement List 1974.

SERVICE

Industrial Class 7699	*Price*
Repair and Maintenance of Office Machines and Calculators (JO); 26 Federal Plaza, New York, N.Y., and U.S. Customs, 6 World Trade Center, New York, N.Y.	List of prices available from GSA, PMDS, Region 2.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.74-15822 Filed 7-10-74;8:45 am]

PROCUREMENT LIST 1974

Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92-28; 85 Stat. 79, of the proposed additions of the following commodities to Procurement List 1974, November 29, 1973 (38 FR 33038).

COMMODITIES

CLASS 7510
Calendar Pad
7510–405–9305
CLASS 8410
Havelock, Women's, AG–274
8410–782–2782
CLASS 8465
Field Pack, Canvas (Forest Service)
8465–205–3493

Comments and views regarding these proposed additions may be filed with the Committee not later than August 12, 1974. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR. Doc.74–15823 Filed 7–10–74;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

AEROSOL PRODUCT—SCOTCHGARD (3M CO.)

Notice of Meeting

This is to announce that on July 17, 1974, Dr. James Long, Dr. Lester Krogh and Mr. Thomas J. Scheuerman of 3M Company, St. Paul, Minnesota, will meet with Dr. Robert Hehir and Dr. Joseph McLaughlin of the Bureau of Biomedical Science, and Ms. Delores Barros, Division of Rules, Bureau of Compliance, to discuss Scotchgard Fabric Protector.

In testimony at a public hearing on aerosol safety on February 20, 1974, and again in a petition filed on April 24, 1974, Dr. Sidney Wolfe and David Charles Masselli requested the Consumer Product Safety Commission take action under the Federal Hazardous Substances Act to ban Scotchgard Fabric Protector, an aerosol product containing trichloroethane.

The meeting will be held at 1:30 p.m. in Room 450, Westwood Towers Building, 5401 Westbard Avenue, Bethesda, Maryland. Parties wishing to attend should notify Ms. Ann Hamann, Bureau of Biomedical Science, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 496–7766.

Dated: July 8, 1974.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.74–15846 Filed 7–10–74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP–32000/81]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB–37, East Tower, 401 M Street, S.W., Washington, D.C. 20460.

On or before September 9, 1974, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH–569), Office of Pesticide Programs, 401 M Street, SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after September 9, 1974.

APPLICATIONS RECEIVED

EPA Reg. No. 241–208. American Cyanamid Co., Agricultural Div., PO Box 400, Princeton NJ 08540. CYTHION INSECTICIDE, THE PREMIUM GRADE MALATHION. Active Ingredients: Malathion 95%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA Reg. No. 241–94. American Cyanamid Co., Agricultural Div., PO Box 400, Princeton NJ 08540. CYGON 267 SYSTEMIC INSECTICIDE (For Use on Sorghum). Active Ingredients: Dimethoate 30.5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA Reg. No. 241–94. American Cyanamid Co. CYGON 267 SYSTEMIC INSECTICIDE (For Use on Cotton). Active Ingredients: Dimethoate 30.5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 18533–0. Ashland Oil, Inc., 6200 Blazer Parkway, Dublin OH 43017. 8-QUINOLINOL CITRATE (GERMICIDE). Active Ingredients: 8-Quinolinol citrate 98.8%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 11649–12. Avitrol Corp., 7644 E. 46th St., PO Box 45141, Tulsa OK 74145. AVITROL FC CORN CHOPS—99. Active Ingredients: 4-Aminopyridine 0.03%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 3876-RRR. Betz Laboratories, Inc., 4636 Somerton Rd., Trevose PA 19047. BETZ SLIME-TROL RX–38A SLIME CONTROL AGENT. Active Ingredients: Bis (trichloromethyl) sulfone 17.0%; Methylene bisthiocyanate 5.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 2914–33. Calgon Commercial Div., 7501 Page Ave., PO Box 147, St. Louis MO 63166. SYN-SOL CLEANER-SANITIZER. Active Ingredients: Sodium Hypochlorite 3.25%; Trisodium phosphate 91.75%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4582–AG. Colgate-Palmolive Co., 300 Park Ave., New York NY 10022. AWAY SPRAY DISINFECTANT DEODORIZER. Active Ingredients: Alkyl (67% C12, 25% C14, 7% C16, 1% C8, +C10+C18) dimethyl benzyl ammonium chlorides 0.210%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 11598–ET. Connecticut Aerosol Inc., 85 Furniture Row, Milford CT 06460. KING SPRAY ANT & ROACH KILLER. Active Ingredients: Pyrethrins 0.052%; Piperonyl butoxide, technical 0.260%; Chlorpyrifos [O,O-diethyl O-3,5,6-trichloro-2-pyridyl)] phosphorothioate 0.500%; Petroleum distillate 95.536%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 851–EI. Commercial and Industrial Products Co., Main St., Childs PA 18407. CIPCO PINE-A-TROL FORTIFIED PINE TYPE DISINFECTANT. Active Ingredients: Pine oil 20.0%; 4- and 6-Chloro-2-phenylphenol 6.5%; Soap 8.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 851–EA. Commercial and Industrial Products Co., Main St., Childs PA 18407. PYNOCIDE PINE ODOR DISINFECTANT. Active Ingredients: Pine oil 12.0%; 4-an 6-Chloro-2-Phenylphenol 5.0%; Soap 5.0%; Isopropyl Alcohol 3.7%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 682–ON. Crop King Chemical, Box 1016, Yakima WA 98907. STRYCHNINE LIQUID BASE. Active Ingredients: Strychnine alkaloid 33.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 464–188. The Dow Chemical Co., PO Box 1706, Midland MN 48640. DOW VERTIFUME EFFECTIVE FUMIGANT FOR CONTROLLING INSECT PESTS IN STORED GRAIN. Active Ingredients: Carbon Tetrachloride 82.9%; Carbon Bisulfide 16.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10163–AA. The Dune Co., Agricultural Chemicals, PO Box 458, 340 E. Main St., Calipatria CA 92233. PROKIL MALATHION CRYOLITE 6–50 DUST. Active Ingredients: Malathion 6%; Sodium Fluoaluminate 48%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 12130–GI. Farm Chemicals, Inc., PO Box 456, Aberdeen NC 28315. MALMETHYL 4–2. Active Ingredients: Malathion (O,O-dimethyl dithiophosphate of diethyl mercaptosuccinate 43.23%); O,O,-Dimethyl O-p-nitrophenyl thiophosphate 21.62%; Xylene 30.15%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 257–EOR. Fuld-Stalfort, Inc., 1345 Old Post Rd., Havre de Grace MD

21078. LIMINATE–R LIQUID RESIDUAL INSECTICIDE. Active Ingredients: Pyrethrins 0.050%; Piperonyl butoxide, technical 0.100%; N-Octyl bicycloheptene dicarboximide 0.166%; 2-(1-methylethoxy) phenol methylcarbanate 0.500%; Petroleum distillate 87.700%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 729–LT. Gulf Oil Corp., PO Box 1166, Pittsburgh PA 15230. GULF LITE OUTDOOR & PATIO FOGGER. Active Ingredients: *d-trans*-chrysanthemum monocarboxylic acid ester of *d*-2-allyl-4-hydroxy- 3 -methyl- 2 -cyclopenten- 1 -one 0.116%; other isomers 0.009%; piperonyl butoxide, technical 1.00%; 2-hydroxyethyl *n*-octyl sulfide 0.950%; related compounds 0.050%; petroleum distillates 0.01%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 729–LI. Gulf Oil Corp., PO Box 1166, Pittsburgh PA 15230. GULF-SPRAY OUTDOOR & PATIO FOGGER. Active Ingredients: *d-trans*-chrysanthemum monocarboxylic acid ester of *d*-2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one 0.116%; other isomers 0.009%; piperonyl butoxide, technical 1.00%; 2-hydroxyethyl *n*-octyl sulfide 0.950%; related compounds 0.050%; petroleum distillates 0.01%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5905–URG. Helena Chemical Co., Clark Tower-51 Poplar Avenue, Suite 2900, Memphis TN 38137. HELENA MCPA AMINE 4. Active Ingredients: Dimethylamine salt of 2-methyl-4-chlorophenoxyacetic acid 52.2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3618–EI. Industrial Colloids & Chemicals, Inc., PO Box 1946, Knoxville TN 37901. QUAT–500 POWERFUL GERMICIDE FOR GENERAL DISINFECTION. Active Ingredients: N-alkyl (C14, C12, C16) dimethyl benzyl ammonium chlorides 10%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33660–RN. I.PI.CI.—Industria Prodotti Chimici S.p.A., via F. IIi Beltrami II, Novate Milanese, Italy. DICOFOL TECHNICAL. Active Ingredients: 1,1-bis (p-chlorophenyl) 2,2,2-trichloroethanol 85%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9554–ET. Levenson Chemical Co., 1407 Harney St., Omaha NE 68102. OKAY 1068 LIQUID ROACH SPRAY. Active Ingredients: Pyrethrins 0.05%; Piperonyl Butoxide, Technical 0.26%; O.O.-diethyl 0-(2 - isopropyl - 6 - methyl-4-pyrimidinyl) phosphorothioate 0.50%; Petroem Distillates 99.12%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33159–R. Martin Laboratories, Inc., PO Box 1207, Owensboro KY 42301. M30–LIQUID SANITIZER. Active Ingredients: Sodium hypochlorite, Nalco 7.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1021–RGRE. McLaughlin-Gormley King Co., 8810 Tenth Ave. N., Minneapolis MN 55427. MGK INTERMEDIATE 2020 A PERSONAL INSECT REPELLENT FORMULATION. Active Ingredients: N,N-diethyl-m-toluamide 76.00%; Other isomers 4.00%; N-octyl bicycloheptene dicarboximide 12.00%; Di-n-propyl isocinchomeronate 4.00%; 2,3:4,5-bis(2-butylene) tetrahydro - 2 - furaldehyde 4.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 20375–E. Nutmeg Chemical Co., 125 Market St., New Haven CT 06513. NUTMEG NC–56. Active Ingredients: Disodium cyanodithiomidocarbonate 6.35%; Ethylenediamine 2.40%; Potassium N-methyldithiocarbamate 8.75%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 4389–TE. Pacific Chemical, Div. Pace National Corp., 500 7th Ave. South, Kirkland WA 98033. ALGAECIDE N–135. Active Ingredients: Sodium pentachlorophenate 79.0%; Sodium salts of other chlorophenols 11.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4389–TR. Pacific Chemical, Div. Pace National Corp., 500 7th Ave. South, Kirkland WA 98033. BACTOIL L–106 MOP TREATING OIL. Active Ingredients: Methyl salicylate 15.0%; Orthobenzylparachlorophenol 2.4%; Orthophenylphenol 0.2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 655–319. Prentiss Drug & Chemical Co., Inc., 363 7th Ave., New York NY 10001. PRENTOX PYRONYL 40–4 EMULSIFIABLE CONCENTRATE AN INSECTICIDE FOR FOMULATING USE. Active Ingredients: Pyrethrins 4.31%; Polyoxyethylene Sorbitol Esters of Mixed Fatty Acids 10.00%; Piperonyl Butoxide, Technical 43.06%; Petroleum Distillates 42.63%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10290–ER. Professional Chemical Co., Inc., PO Box 94071, Houston TX 77018. PROFESSIONAL TERRACLOR 2 E EMULSIFIABLE LIQUID-SOIL FUNGICIDE. Active Ingredients: Pentachloranitrobenzene 23.9%; Xylene range aromatic hydrocarbon solvent 72.0%. Method of Support: Application proceeds under 2 (c) of interim policy.

EPA File Symbol 10290–EE. Professional Chemical Co., Inc., PO Box 94071, Houston TX 77018. CHLORDANE 10% DUST. Active Ingredients: Technical Chlordane (Equivalent to 6% Octachloro-4,7 Methano Tetrahydroindane and 4% related compounds) 10.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1202–EAL. PureGro Co., 1052 W. 6th St., Los Angeles CA 90017. PARATHION 8E. Active Ingredients: Parathion: O, O-diethyl O-p-nitrophenyl phosphorothioate 81.4%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 707–REG. Rohm & Haas Co., Independence Mall W., Philadelphia PA 19105. KATHON 886 A PAPER MILL SLIMICIDE. Active Ingredients: 5-Chloro-2-methyl-4-isothiazolin-3-one calcium (II) chloride (75%) and 2-methyl-4-isothiazolin-3-one calcium (II) chloride (25%) 80.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA Reg. No. 707–78. Rhom & Haas. DITHANE M–45 AGRICULTURAL FUNGICIDE (For Use on Peanuts). Active Ingredients: Manganese 16%; Zinc 2%; Ethylene bisdithiocarbamate ion 62%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA Reg. No. 707–78. Rhom & Haas. DITHANE M–45 AGRICULTURAL FUNGICIDE (For Use on Seed Crop Soybeans). Active Ingredients: Manganese 16%; Zinc 2%; Ethylene bisdithiocarbamate ion 62%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 11613–RR. Southeastern Sanitary Supply Co., 2275 Lower Wetumpka Rd., Montgomery AL 36102. SESSCO SESSQUAT DISINFECTANT CLEANER SANITIZER FUNGICIDE DEODORANT. Active Ingredients: n-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chloride 5.0%; Tetra sodium salt of ethylene diamine tetraacetic acid 2.3%; Sodium carbonate 2.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 476–2121. Stauffer Chemical Co., 1200 S. 47th St., Richmond CA 94804. DYFONATE 5.G GRANULAR ORNAMENTAL TURF INSECTICIDE. Active Ingredients: *O*-ethyl *S*-phenyl ethylphosphonodithioate 5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 476–2120. Stauffer Chemical Co. DYFONATE 2.G A GRANULAR SOIL INSECTICIDE FOR LAWNS AND HOME GARDENS. Active Ingredients: *O*-ethyl, *S*-phenyl ethylphosphonodithioate 2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 476–1917. Stauffer Chemical Co. IMIDAN 50–WP. Active Ingredients: N-(mercaptomethyl) phthalimide, S-(O,O-dimethyl phosphorodithioate 50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 998–RRE. Superior Chemical Products, Inc., 3942 Frankford Ave., Philadelphia PA 19124. SUPERIOR DRI-DIE INSECTICIDE. Active Ingredients: Amorphous Silica Gel 95.3%; Ammonium Fluosilicate 4.7%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 148–775. Thompson-Hayward Chemical Co., 5200 Speaker Rd., Kansas City KS 66110. DIAZINION 2 DUST. Active Ingredients: O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 14775–ER. Asgrow Kilgore Co., Subsidiary of The Upjohn Co., PO Drawer D, Plant City FL 33566. ASGROW CYTHION 5 E.C. 55% MALATHION. Active Ingredients: Malathion (O,O-dimethyl phosphorodithioate of diethyl mercaptosuccinate) 55.00%; Xylene 32.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 10562–1. Vasco Chemical Co. Inc., 308 E. 6th St., Hanford CA 93230. VASCO FORMULA 100–G POWDERED INSECTICIDE. Active Ingredients. Pyrethrins 1.00%; Technical piperonyl butoxide 10.-00%; Amorphous silica gel 40.00%; Petroleum hydrocarbons 49.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 984–AU. Whitmoyer Laboratories, Inc., 19 N. Railroad St., Myerstown PA 17067. BARKER'S DUTCH FUMIGANT-2 GRAIN FUMIGANT. Carbon Tetrachloride 76.5%; Carbon Bisulfide 10.0%; Ethylene Dichloride 10.0%; Ethylene Dibromide 3.5%. Method of Support: Application proceeds under 2(c) of interim policy.

Republished Item

The following item represents a correction and/or change in the list of Applications Received previously published in the Federal Register of June 26, 1974 (30 FR 23088).

EPA File Symbol 327–RUU. Texas Phenothiazine Co. TPC 300–400 DOUBLE-BARRELLED HORSE WORMER. Active Ingredients: Trichlorfon [O,O-Dimethyl (2,2,2 - trichloro-1-hydroxyethyl) phosphonate] 7.477%; Phenothiazine 17.638%. Correction: Originally published as Thichlorfon and posphonate.

Dated: July 3, 1974.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.74–15788 Filed 7–10–74;8:45 am]

BINAPACRYL

Notice of Intent To Cancel Registration

This notice is a continuation of the Environmental Protection Agency's policy of canceling the registered uses for pesticide chemicals where available data do not meet present-day requirements.

In the FEDERAL REGISTER of August 30, 1972 (37 FR 17554), interim tolerances were established for residues of the fungicide and insecticide binapacryl (2-sec-butyl-4,6-dinitrophenyl-3-methyl -2-butenoate) and its metabolite 2-sec-butyl-4,6-dinitrophenol, calculated as binapacryl, in or on the raw agricultural commodities apples, grapes, and pears at 0.2 part per million.

The data submitted to support establishment of permanent tolerances for residues of binapacryl and the aforesaid metabolite in or on apples, grapes, and pears at 0.2 part per million have been evaluated and found inadequate. Furthermore, FMC Corp., Middleport, N.Y. 14105, has withdrawn its request proposing establishment of tolerances for combined residues of binapacryl and the metabolite in or on apples, grapes, and pears at 0.2 part per million (notice was published in the FEDERAL REGISTER of February 26, 1974 (39 FR 7484)). (For a related document, see this issue of the FEDERAL REGISTER, page 25488.)

Therefore, in accordance with the provisions of section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by Public Law 92-516 (86 Stat. 984), products containing binapacryl which bear directions for use on apples, grapes, and pears which are registered under the Federal Insecticide, Fungicide, and Rodenticide Act are no longer considered to be in compliance with provisions of said act. The registration of such products will be canceled effective August 12, 1974 or from receipt by the registrant of a copy of this notice, whichever is later, unless other procedure is invoked as provided in section 6.

Dated: June 28, 1974.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.74-15861 Filed 7-10-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 707]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

JULY 1, 1974.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21330-C2-P-(2)-74, Mobile Radio Communication Service, Inc. (KOA264) C.P. to add standby facilities to operate on 152.06 MHz located at 431 Greenleaf Road, Portland, Oregon.

21617-C2-R-74, Pacific Northwest Bell Telephone Company (KF2010) Renewal of Developmental license expiring July 14, 1974. TERM: July 14, 1974 to July 14, 1975.

21619-C2-P-74, South Central Bell Telephone Company (KWA638) C.P. to change antenna system and relocate facilities operating on 152.54 MHz to be located at 334 North Cumberland Street, Jackson, Tennessee.

21620-C2-P-(3)-74, Mobile Telecommunications Corporation (KKE968) C.P. for additional facilities to operate on 454.100, 454.175 and 454.225 MHz to be located at a new site described as Loc. #4: KELP-TV Tower, El Paso, Texas.

21622-C2-P-74, Signal Thirty Communications, Inc. (New) C.P. for a new 2-way station to operate on 152.03 MHz to be located 4.8 miles NNE of Wadena, Minnesota.

21623-C2-AL/AP-(2)-74, H. B. James d.b.a. J & S Communications. Consent to Assignment of License and Permit from H. B. James ASSIGNOR to Radio Telephone Communications, Inc., ASSIGNEE. Stations: KIQ510 and KUO605, Panama City, Florida.

21624-C2-AL-(5)-74, Joseph D. Nix d.b.a. Radio Telephone Service. Consent to Assignment of License from Joseph D. Nix, ASSIGNOR to Radio Telephone, Inc. ASSIGNEE. Stations: KTS269, KRM948, KIY583, KIY509 and KIJ356, Atlanta, Georgia.

21625-C2-MP-74, Metro Fone Communications, Inc. (KRS655) Mod. Permit to change antenna system operating on 454.225 MHz to be located at IDS Center 80 South Eighth Street, Minneapolis, Minnesota.

21626-C2-P-74, Robert H. Larson d.b.a. Oregon Mobile Radio (KOP311) C.P. to change antenna system and location operating on 454.25 MHz located at 218 South Central Avenue, Medford, Oregon.

21627-C2-P-(4)-74, Airsignal International, Inc. C. P. to change antenna system, replace transmitter and change frequency on repeater facilities at Loc. #2 from 72.76 MHz to 2173.6 and 2165.6 MHz located 1.75 miles N.W. of Squaw Valley, Bear Mountain, California; change antenna system and location, replace transmitter and change frequency from 72.76 MHz to 2123.6 MHz on control facilities at Loc. #1: N.W. Corner, Walnut and Woodland Streets, Visalia, California; and change antenna system, replace transmitter, add control point and change frequency from 72.76 MHz to 2115.6 MHz at Loc. #4: 238 North Fresno Street, Fresno, California.

21628-C2-P-(2)-74, Airsignal of California, Inc. (KMA742) C. P. to change antenna system, replace transmitter and change frequency from 72.76 MHz to 2167.2 MHz at Loc. #1: Lewis Hill, Porterville, California, repeater facilities; and change antenna system and location and replace transmitter and change frequency from 72.76 MHz to 2117.2 MHz located at NW Corner, Walnut and Woodland Streets, Visalia, California.

21629-C2-P-(3)-74, Comex, Inc. (KCI295) C. P. to add antenna location #5 to operate on 43.22 and 43.58 MHz to be located at North Peak, Mt. Ascutney, Vermont.

21630-C2-P-74, The Pacific Telephone and Telegraph Company (KSV983) C. P. to change antenna system and relocate facilities operating on 152.84 MHz at Loc. #1 to: 420 S. Grand Avenue, Los Angeles, California.

21631-C2-P-74, Nashville Mobilphone, Inc. (NEW) C. P. for a new 1-way station to operate on 35.58 MHz to be located at 322 Main Street, Clarksville, Tennessee.

21632-C2-P-74, Nashville Mobilphone, Inc. (NEW) C. P. for a new 2-way station to operate on 454.125 MHz to be located at 322 Main Street, Clarksville, Tennessee.

21633-C2-P-74, Contact Unlimited Corporation (NEW) C. P. for a new 1-way station to operate on 152.24 MHz to be located Eastside Thatcher Street, ¾ mile east of U.S. #113, Frankford, Delaware.

21634-C2-AL-74, A. F. Kimmel. Consent to Assignment of License from A. F. Kimmel, ASSIGNOR to Schuylkill Mobile Fone, Inc., ASSIGNEE. Station: KGA589, Pottsville, Pennsylvania.

21635-C2-P-74, Rogers Radio Communication Service, Inc. (KTS204) C. P. for additional facilities to operate on 152.24 MHz to be located at 2915 Bernice Road, Lansing, Illinois.

MAJOR AMENDMENT

21023-C2-P-74, Rad Com Electronics, Inc. (NEW) Amend application to add transmitting antenna location at Buck Mountain, 4.9 miles SW of Quilcene, Washington to operate on 152.12 MHz. All other particulars to remain as reported on PN No. 691, dated March 11, 1974.

CORRECTION

21322-C2-P-74, Illinois Bell Telephone Company (KTS203) Correct PN #700 dated May 13, 1974 to read: C. P. for additional facilities to operate on 158.10 MHz at Loc. #4: 812 Deerfield Road, Deerfield, Illinois.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

RURAL RADIO

60332–C6–P/L–74, AAA Anserphone, Inc.—Jackson (NEW) C. P. for a new rural subscriber station to operate on 158.67 MHz to be located within the territory of the grantee.

60333–C6–P/L–74, The Mountain States Telephone and Telegraph Company (NEW) C. P. for a new rural subscriber station to operate on 157.77 MHz to be located 26.0 miles west of Bill, Wyoming.

POINT-TO-POINT MICROWAVE RADIO SERVICE

4489–C1–P–74, CPI Microwave of Louisiana, Inc. (New) Cameron Farms, 10.4 Miles South of Vinton, Louisiana. Lat. 30°05'07" N., Long. 93°31'40" W. C.P. for a new station on freq. 6345.5H MHz toward Lake Charles, Tex. on azimuth 71°21'; freq. 6375.2H MHz toward Orange, Tex. on azimuth 286°35'.

4490–C1–P–74, Same (New) 4.0 Miles SW of Lake Charles, Louisiana. Lat. 30°09'54" N., Long. 92°38'13" W. C.P. for a new station on freq. 6123.1V MHz toward Lacassine, La. on azimuth 76°7'; freq. 6093.5H MHz toward Cameron Farms, La. on azimuth 251° 29'.

4491–C1–P–74, Same (New) 0.4 Mile SE of intersection of Hwy. 10 and Hwy. 165, Lacassine, Louisiana. Lat. 30°13'40" N., Long. 92°57'40" W. C.P. for a new station of freq. 6375.2H MHz toward Jennings, La. on azimuth 88°27'; freq. 6404.8V MHz toward Lake Charles, La. on azimuth 256°19'.

4492–C1–P–74, Same (New) 1.5 Miles NE of Jennings, Louisiana. Lat. 30°14'06" N., Long. 92°38'13" W. C.P. for a new station on freq. 6123.1H MHz toward Crowley, La. on azimuth 96° 11'; freq. 6093.5H MHz toward Lacassine , La. on azimuth 268°37'.

4493–C1–P–74, Same (New) 1.8 Miles West of Crowley, Louisiana. Lat. 30°12'46" N., Long. 92°24'10" W. C.P. for a new station on freq. 6375.2H MHz toward Lafayette, La. on azimuth 99°59'; freq. 6197.2H toward Jennings, La. on azimuth 276°18'.

4494–C1–P–74, Same (New) 0.5 Mile SW of intersection of Hwy. 167 and Dr. DuHon Rd., Lafayette, Louisiana. Lat. 30°09'51" N., Long. 92°05'16" W. C.P. for a new station on freq. 6063.8H MHz toward Catahoula, La. on azimuth 86°07'; freq. 6152.8H MHz toward Crowley, La. on azimuth 280°09'.

4495–C1–P–74, Same (New) Catahoula, 7.8 Miles NE of St. Martinville, Louisiana. Lat. 30°11'09" N., Long. 91°42'38" W. C.P. for a new station on freq. 6404.8V MHz toward Bayou Sorrel, La. on azimuth 93°58'; freq. 6256.5H MHz toward Lafayette, La. on azimuth 266°19'.

4496–C1–P–74, Same (New) Bayou Sorrel, 22 Miles SSW of Baton Rouge, Louisiana. Lat. 30°09'45" N., Long. 91°19'58" W. C.P. for a new station on freq. 5974.8V MHz toward Donaldsonville, La. on azimuth 101°28'; freq. 6123.1H MHz toward Baton Rouge, La. on azimuth 23°31'; freq. 6093.5H MHz toward Catahoula, La. on azimuth 274°10'.

4497–C1–P–74, Same (New) Roof of Capitol House Motor Hotel, Baton Rouge, Louisiana. Lat. 30°26'56" N., Long. 91°11'20" W. C.P. for a new station on freq. 6315.9H MHz toward Bayou Sorrel, La. on azimuth 203°36'.

4498–C1–P–74, CPI Microwave of Louisiana, Inc. (New) 1.7 Miles West of Donaldsonville, Louisiana. Lat. 30°06'27" N., Long. 91°01'22" W. C.P. for a new station on freqs. 6404.8V MHz toward Vacheria, Louisiana on azimuth 109°02'; freq. 6256.5V MHz toward Bayou Sorrel, Louisiana on azimuth 281°36'.

4499–C1–P–74, Same (New) Vacheria, 17 Miles NE of Donaldsonville, Louisiana. Lat. 30°00'49" N., Long. 90°42'40" W. C.P. for a new station on freqs. 6108.3H MHz toward DuFresne, Louisiana on azimuth 103°55'; freq. 6123.1V MHz towards Donaldsonville, Louisiana on azimuth 289°10'.

4500–C1–P–74, Same (New) DuFresne, Louisiana. Lat. 29°56'48" N., Long. 90°24'09" W. C.P. for a new station on freq. 6360.3V MHz toward New Orleans, Louisiana on azimuth 89°25'; freqs. 6360.3V MHz toward Vacheria, Louisiana on azimuth 284° 04'.

4520–C1–P–74, GTE Satellite Corporation (New) San Antonio, 5.5 miles NNW from Lecanto, Florida. Lat. 28°22'27" N., Long. 82°21'15" W. C.P. for a new station on freqs. 6197.2V, 6256.5V, 6315.9V, 6375.2V, 6226.9H, and 2162.4H MHz toward Brooksville, Florida on azimuth 344°17'; freq. 6197.2H, 6256.5H, 6315.9H, 6375.2H, 6226.9V and 2179.0V MHz toward Zephyrhills, Florida, on azimuth 133°26'.

4521–C1–P–74, The Mountain States Telephone and Telegraph Company (KPS80) 1.9 miles NNW of Madera Canyon, Arizona. Lat. 31°45'08" N., Long. 110°53'24" W. C.P. to change power and replace transmitter on freqs. 6049.0H and 6335.0H MHz toward Tucson, Arizona on azimuth 351°54'.

4522–C1–P–74, Same (KOS52) 120 East Pennington Street, Tucson, Arizona. Lat. 32°13'26" N., Long. 110°58'08" W. C.P. to change power and replace transmitters on freqs. 5975H and 6215H MHz toward Madera Canyon, Arizona on azimuth 171°52'.

4523–C1–P–74, General Telephone Company of California (NEW) Building 7000, Vandenberg, Air Force Base, California. Lat. 34°43'37" N., Long. 120°32'50" W. C.P. for a new station on freqs. 2117.2V MHz toward Mount Santos, California on azimuth 82°31'.

4524–C1–P–74, Same (KTQ44) Mount Santos, 5.6 miles North of Lompoc, California Lat. 34°44'17" N., Long. 120°26'40" W. C.P. to add freqs. 2167.2V MHz toward a new point of communication at Bldg. 7000, Vandenburg, Air Force Base, California on azimuth 262°34'.

4525–C1–P–74, Bell Telephone Company of Nevada (KPF92) Montezuma, 8 miles West of Goldfield, Nevada. Lat. 37°42'06" N., Long. 117°22'57" W. C.P. to change power and replace transmitter on freq. 5945.2V MHz toward Columbus, Nevada on azimuth 313°17'.

4526–C1–P–74, Bell Telephone Company of Nevada (KPF88) Eagle Ridge 8.8 miles SW of Fernley, Nevada. Lat. 39°29'01" N., Long. 119°19'04" W. C.P. to change power and replace transmitters on freq. 5974.8V MHz toward Black Mountain, Nevada on azimuth 147°01'.

4527–C1–P–74, Same (KPF90) 18.5 miles NW of Luning, Nevada. Lat. 38°39'16" N., Long. 118°18'44" W. C.P. to change power and replace transmitter on freqs. 6063.8V MHz toward Black Mountain, Nevada on azimuth 304°50'; 5974.8V MHz toward Columbus, Nevada on azimuth 133°37'.

4529–C1–P–74, Same (KPF91) Columbus, 10 miles NW of Coaldale, Nevada. Lat. 38°09'40" N., Long. 118°00'09" W. C.P. to change power and replace transmitter on freqs. 6226.9V MHz toward Rabbit Springs, Nevada on azimuth 333°48'; 6197.2V MHz toward Montezuma, Nevada on azimuth 132°54'.

4414–C1–P–74, The Pacific Telephone and Telegraph Company (HNM41) Baldwin Hills, 305' South of Los Angeles City Limits, and 500' South of Baldwin Hills Reservoir, Baldwin Hills, California. Lat. 34°00'19" N., Long. 118°21'43" W. C.P. to change point of communication on freqs. 11285V, 11365H, 11445V, 11525H, 11605V and 11685H MHz to Los Angeles, California on azimuth 70°20'.

4415–C1–P–74, Same (New) 1900 South Grand Avenue, Los Angeles, California. Lat. 34°02'00" N., Long. 118°16'03" W. C.P. for a new station on freqs. 10755H, 10835V, 10915H, 10995V, 11075H and 11155V MHz toward Baldwin Hills, California on azimuth 250°24'.

4503–C1–P–74, Eastern Microwave, Inc. (KEM36) Hatch Hill, 2 miles SE of Georgetown, New York. Lat. 42°45'10" N., Long. 75°41'56" W. C.P. to add 6108.3V MHz toward Cortland, New York, on azimuth 238°50'.

4505–C1–P–74, Mountain Microwave Corporation. (WJL60) Miller, South Dakota. Lat. 43°43'54" N., Long. 97°05'14" W. C.P. to add 11625V and 11465V MHz toward Mitchell, South Dakota, on azimuth 266°-45'.

4508–C1–P–74, Yankee Microwave Corporation (KYZ85) Mountain Washington, New Hampshire. Lat. 44°16'13" N., Long. 71°18'-13" W. C.P. to add 6212.1V MHz toward new point of communication at Saddleback, New Hampshire, on azimuth 176°-14'.

4509–C1–P–74, Same (New) Saddleback Mountain, New Hampshire. Lat. 43°10'41" N., Long. 71°12'19" W. C.P. for new station—10975V MHz toward Nashua, New Hampshire, on azimuth 202°47'.

4518–C1–P–74, American Television Relay, Inc. (KPZ82) Pinal Peak, Arizona. Lat. 33°16'56" N., Long. 110°49'14" W. C.P. to add 6071.2H MHz and 6130.5H MHz toward new point of communication at Paradise Valley, Arizona, on azimuth 284°07'.

4519–C1–P–74, Same (KPV76) White Tank Mtn., Arizona. Lat. 33°34'10" N., Long. 112°33'33" W. C.P. (a) to add 11285V MHz and 11525V MHz toward new point of communication at Fountain Hills, Arizona, on azimuth 88°10' and (b) to add same frequencies toward new point of communication at Fountain of the Sun, Arizona on azimuth 102°26'.

4516–C1–P–74, General Telephone Company of Florida (KYJ44) 201 South Gall Blvd., Zephyrhills, Florida. Lat. 28°13'39" N., Long. 82°10'46" W. C.P. to add 3770V, 3850V, and 3930V MHz toward Odessa, Florida, on azimuth 264°45'; 6034.2V, 6093.5V, 6152.8V MHz toward Eva, Florida on azimuth 77°46'; and 5945.2H 6004.5H, 6063.8H, 6123.1H, 5974.8V and 2129.0V MHz toward a new point of communication at San Antonio, Florida on azimuth 313°-31'.

4517–C1–P–74, Same (KGP53) On Hwy. #33, 2.3 miles South of Eva, Florida. Lat. 28°17'37" N., Long. 81°49'57" W. C.P. to add frequency 6286.2V, 6345.5V and 6404.8V MHz toward Zephyrhills, Florida on azimuth 257°56'.

4530–C1–ML–74, American Telephone and Telegraph Company (KAB26) 6.5 miles East of Prospect Valley, Colorado. Lat. 40°04'31" N., Long. 104°17'23" W. Mod. of Lic. to change polarity from H to V on freqs. 3770, 3930, 4090, 3850, 4010, and 4170 MHz; from V to H on freqs. 3750, 3910, 4070, 3830, 3990, and 4150 MHz all toward Hudson, Colorado on azimuth 258°36'.

4531–C1–ML–74, Same (KAC64), 3.6 miles South of Hudson, Colorado. Lat. 40°01'-13" N., Long. 104°38'27" W. Mod. of Lic. to change polarity from V to H on freqs. 3710, 3790, 3950, 4030 and 4110 MHz; from H to V 3730, 3810, 3890, 3970, 4050, and 4130 MHz toward Prospect Valley, Colorado on azimuth 78°22'.

4532–C1–ML–74, Same (KAN90) 4.6 miles NE of Russell, Colorado. Lat. 37°36'30" N., Long. 105°14'09" W. Mod. of Lic. to change polarity from H to V on freqs. 3710, 3790, 3870, 3950, 4030, and 4110; from V to H 3730, and 4130 MHz toward Cedarwood, Colorado, on azimuth 54°29'.

4533–C1–ML–74, Same (KAS85) 8.9 miles NE of Cedarwood, Colorado. Lat. 38°01'30" N.,

Long. 104°29'38" W. Mod. of Lic. to change polarity from H to V on freqs. 3750, 3810, 3910, 3990, 4070, and 4150; from V to H on freqs. 3770, 3850, 3930, 4010, and 4170 MHz toward Boone, Colorado on azimuth 43°00'; from V to H on freqs. 3770 and 3850 MHz toward Beulah, Colorado on azimuth 289°21'; from H to V on freqs. 3750, 3830, 3910, 3990, 4070, and 4150 MHz; from V to H 3770, 4090, and 4170 MHz toward La Veta Pass, Colorado on azimuth 234°56'; from V to H on freqs. 3770, 3850, 3930, 4010 and 4090 MHz toward Manzanola, Colorado, on azimuth 105°23'.

4534–C1–ML–74, American Telephone and Telegraph Company (KAU62) 10.7 miles NE of Boone, Colorado. Lat. 38°23'55" N., Long. 104°06'36" W. Mod. of Lic. to change polarity from H to V on freqs 3710, 3870, 4030, 4110, 3790, and 3950 MHz; V to H 3730, 3890, 3810, 3970 and 4130 MHz toward Truckton, Colorado on azimuth 345°45'; from H to V 3710, 3870, 4030, 3790, 3950 and 4110 MHz, V to H 3730, 3890, 4050, 3810, 3970, and 4130 MHz toward Cedarwood, Colorado on azimuth 223°14'.

4535–C1–ML–74, Same (KAV53) 3.3 miles SW of Truckton, Colorado. Lat. 38°42'24" N., Long. 104°13'34" W. Mod. of Lic. to change polarity from H to V 3750, 3910, 4070, 3830, 3990 and 4150 MHz; V to H 3770, 3930, 4090, 3850, 4010 and 4170 MHz toward Boone, Colorado on azimuth 165°40'.

4536–C1–ML–74, Same (KAZ54) 15.0 miles SSW of Manzanola, Colorado. Lat. 37°54'-46" N., Long. 103°59'02" W. Mod. of Lic. to change polarity from V to H on freqs. 3730, 3810, 3890, 3970 and 4050 MHz toward Cedarwood, Colorado on azimuth 285°41'.

3537–C1–ML–74, Same (KBI27) 5.7 miles NE of Beulah, Colorado. Lat. 38°08'37" N., Long. 104°55'28" W. Mod. of Lic. to change polarity from V to H on freqs. 4050 and 4130 MHz toward Cedarwood, Colorado on azimuth 109°05'.

4538–C1–ML–74, Same (KKX60) 2.5 miles NW of El Paso, Texas. Lat. 31°47'42" N., Long. 106°29'38" W. Mod. of Lic. to change polarity from V to H on freqs. 4050 and 4070, 3830, 4150 and 3910; from V to H 3770 and 4170 MHz toward Fairacres, New Mexico on azimuth 320°56'.

4539–C1–ML–74, Same (KLT95) 13.0 miles WNW of Fairacres, New Mexico. Lat. 32°-22'23" N., Long. 107°02'53" W. Mod. of Lic. to change polarity from H to V on freqs. 3710, 3950, 4030, 3790, 4110, and 3870; from V to H 3730 and 4130 MHz toward Crazy Cat, Texas on azimuth 140°38'.

4540–C1–ML–74, Same (KNB54) 4.5 miles East of Cima, California. Lat. 35°14'12" N., Long. 115°25'22" W. Mod. of Lic. to change polarity from V to H on freqs. 3750, 4070, 4198, 3830, 4150, and 3990 MHz; from H to V 3770, 4090, and 4170 MHz toward Beer Bottle, Nevada on azimuth 17°19'.

4541–C1–ML–74, Same (KOB26) 3100 Kennedy Drive, Salt Lake City Jct., Utah. Lat. 40°-45'00" N., Long. 111°48'03" W. Mod. of Lic. to change polarity from V to H on freqs. 3710, 3870, 4030, 3790, 3950, and 4190 MHz; from H to V 3730, 3890, 4050, 4130, 3810 and 3970 MHz toward Riverton, Utah on azimuth 206°01'.

4542–C1–ML–74, American Telephone and Telegraph Company (KOB87) Wild Horse, near Lovelock, Nevada. Lat. 40°01'20" N., Long. 118°22'12" W. Mod of Lic to change polarity from H to V 3710, 3870, 4030, 3790, and 3950 MHz; from V to H 3730, 3890, 4050, 4130, 3810 and 3970 MHz toward Hot Springs, Nevada on azimuth 235°11'.

4543–C1–ML–74, Same (KOB88) Hot Springs, near Carson Sink, Nevada. Lat. 39°46'14" N., Long. 118°50'14" W. Mod. of Lic. to change polarity from H to V on freqs. 3750, 3910, 4070, 3830, and 3990 MHz; from V to H 3770, 3930, 4090, 4170, 3850 and 4010 MHz toward Wild Horse, Nevada on azimuth 54°53'.

4544–C1–ML–74, Same (KOU88) 1919 Capitol Avenue, Cheyenne, Wyoming. Lat. 41°08'11" N., Long. 004°49'00" W. Mod. of Lic to change polarity from H to V on freqs. 3770, 3850, 3930 and 4010 MHz toward Cheyenne Jct., Wyoming on azimuth 212°43'.

4545–C1–ML–74, Same (KPM66) 0.5 miles West of Riverton, Utah. Lat. 40°31'24" N., Long. 111°56'45" W. Mod. of Lic. to change polarity from V to H on freqs. 3750, 3990, 4198, 3830 and 4070 MHz; from H to V 3930, 4170, 3770, 3850 and 4090 MHz toward Salt Lake City Jct., Utah on azimuth 25°56'.

4546–C1–ML–74, Same (KPM79) 10.4 miles SE of Jean, Nevada. Lat. 35°37'41" N., Long. 115°16'24" W. Mod. of Lic. to change polarity from V to H on freqs. 3710, 3950, 4030, 4190, 3790, 3870 and 4110 MHz; from H to V on freqs. 4130, 3730, and 4050 MHz toward Cima, California, on azimuth 197°24'.

4547–C1–ML–74, Same (KPT97) 7.7 miles East of Winkleman, Arizona. Lat. 32°58'22" N., Long. 110°38'24" W. Mod. of lic. to change polarity from H to V on freqs. 3770, 3850, 4010, 4170, 3930 and 4090 MHz; from V to H 3990, 4150, 3910 and 4070 MHz toward Kelvin, Arizona on azimuth 285°37'.

4548–C1–ML–74, Same (KPT98) 5.6 miles WSW of Kelvin, Arizona. Lat. 33°04'10" N., Long. 111°03'13" W. Mod. of lic. to change polarity from H to V on freqs. 3730, 4050, 3810, 4130, 3890 and 3970 MHz toward Winkleman, Arizona on azimuth 105°24'.

4549–C1–P–74, The Southern New England Telephone Company (New) 24 Summit Street, Hartford, Connecticut. Lat. 41°44'38" N., Long. 72°41'32" W. C.P. for a new station on freqs. 3710V and 3790V MHz toward Birch Mtn., Rd., John Tom Hill, Glastonbury, Connecticut, on azimuth 101°49'.

4550–C1–P–74, Midwestern Relay Company (WKR98) Oak Ridge, Wisconsin. Lat. 44°35'05" N., Long. 92°24'18" W. C.P. to add 6256.5V MHz toward Red Wing, (CATV) Minnesota on azimuth 241°42'.

4510–C1–P–74, The Mountain States Telephone and Telegraph Company (KOS52) 120 East Pennington, Tucson, Arizona. Lat. 32°13'26" N., Long. 110°58'08" W. C.P. to replace transmitter and change power on freqs. 11445V and 11685H MHz toward Mount Lemmon, Arizona, on azimuth 35°34'.

4511–C1–P–74, Same (KPN80) Mount Lemmon, 18.4 miles NNE of Tucson, Arizona. Lat. 32°26'21" N., Long. 110°47'14" W. C.P. to change power and replace transmitters on freqs. 10755H and 10995V MHz toward Tucson, Arizona, on azimuth 215°40'.

4512–C1–MP–74, Northwestern Bell Telephone Company (KAZ43) 6.5 miles North of Benedict, North Dakota, Lat. 47°55'20" N., Long. 101°04'37" W. Mod. of C.P. to change polarity on freq. 6315.9 from Horizontal to Vertical towards Minot, North Dakota, on azimuth 332°57'.

4513–C1–P–74, The Chesapeake and Potomac Telephone Company of Maryland. (WAD25) 1 mile East of Arnold, Maryland on Broadneck County Road, Lat. 39°02'05" N., Long. 76°29'31" W. C.P. to add freq. 10735.0V MHz toward a new point of communication at Stevensville, Maryland, on azimuth 111°-31'.

4551–C1–P–74, Same (New) .3 mile East of Stevensville, Maryland on State Highway 18. Lat. 38°58'43" N., Long. 76°18'36" W. C.P. for a new station on freqs. 11625.0V MHz toward Arnold, Maryland, on azimuth 291° 37'.

4552–C1–P–74, Somerset Telephone Company (KCK91) Summit, Sugar Loaf Mtn., Maine. Lat. 45°01'58" N., Long. 70°18'52" W. C.P. to change power and replace transmitter on freqs. 5982.3H MHz toward Stratton, Maine, on azimuth 320°10'; 6026.7H MHz toward Kingfield, Maine, on azimuth 122°25'; 5952.6H MHz toward Crockertown, Maine, on azimuth 01°10'; 5937.8H and 5997.1H MHz toward North Anson, Maine, on azimuth 118°50'; 5967.4H MHz toward Strong, Maine, on azimuth 160°18'.

4553–C1–P–74, Same (KCL37) 1.8 miles East Norridgewock, Maine. Lat. 44°42'59" N., Long. 69°45'10" W. C.P. to change power and replace transmitter on freqs. 6041.6H MHz toward North Anson, Maine on azimuth 318°00'.

4554–C1–P–74, Same (KCL38) Solon Road, 1 mile East of North Anson, Maine. Lat. 44° 51'41" N., Long. 69°53'19" W. C.P. to change power and replace transmitter on freqs. 6189.8H and 6249.1H MHz toward Sugar Loaf Mtn., Maine on azimuth 299°-15'.

4555–C1–P–74, Same (KCL39) Route 234 1 mile East of Strong, Maine. Lat. 44°47'58" N., Long. 70°12'08" W. C.P. to change power and replace transmitter on freq. 6219.5H MHz toward Sugar Loaf Mtn., Maine, on azimuth 340°20'.

4556–C1–P–74, Somerset Telephone Company (KCL40) Upper Main Street, Kingfield, Maine. Lat. 44°57'42" N., Long. 70°09'35" W. C.P. to change power and replace transmitter on freqs. 6278.8H MHz toward Sugar Loaf Mtn., Maine, on azimuth 302° 30'.

4557–C1–P–74, Same (KCL41) Crockertown, 0.5 mile South of Bigelow, Maine Lat. 45°-04'47" N., Long. 70°18'47" W. C.P. to change power and replace transmitter on freq. 6204.7H MHz toward Sugar Loaf Mtn., Maine, on azimuth 181°10'.

4558–C1–P–74, Same (KCL42) North side of Maine Street, Stratton, Maine Lat. 45°08' 27" N., Long. 70°26'33" W. C.P. to change power and replace transmitter on freq. 6234.3H MHz toward Sugar Loaf Mtn., Maine, on azimuth 140°05'.

4559–C1–P–74, Same (KTQ53) Campground Road, 1 mile South of North Anson, Maine. Lat. 44°50'20" N., Long. 69°54'18" W. C.P. to change power and replace transmitter on freq. 6293.6H MHz toward Norridgewock, Maine, on azimuth 138°00'.

4560–C1–P–74, Continental Telephone Company of California. (KVI35) 8101 Bay Avenue, California City, California. Lat. 35°07' 29" N., Long. 117°58'57" W. C.P. to change power and replace transmitter on freq. 6093.5H MHz toward Mojave, California on azimuth 192°14'.

4561–C1–P–74, Same (KML57) 1 mile North of Route #466, and 9 miles East of Mojave, California. Lat. 35°02'18" N., Long. 118°00' 19" W. C.P. to change power and replace transmitter on freq. 6315.9H MHz toward California City, California on azimuth 12° 13'.

[FR Doc.74–15732 Filed 7–10–74;8:45 am]

NATIONAL INDUSTRY ADVISORY COMMITTEE

Notice of Renewal

The Federal Communications Commission has determined that renewal of the National Industry Advisory Committee is in the public interest and necessary in order to discharge the agency's responsibilities under Executive Order 11490. Notice of renewal is hereby published.

The National Industry Advisory Committee advises the FCC on emergency communications policies, plans, systems and procedures for all FCC licensed and regulated communications (common carrier, broadcast and safety & special radio services) in order to provide continued emergency communication services under conditions of crisis or war.

The Committee functions through an executive committee and ten standing committees encompassing the following areas: Maritime, amateur, public safety, cable TV, common carrier, aeronautical, land transportation, industrial, broadcast and citizens. The Committee studies and submits recommendations to the FCC concerning: Operational emergency communications policies, plans, systems, and procedures to fulfill stated requirements, and proposals for their development; proposed tests and exercises of operational emergency communications systems, plans and procedures; and the establishment of authentication procedures. The Committee has been renewed for an additional period of two years beyond June 30, 1974.

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

[FR Doc.74-15859 Filed 7-10-74;8:45 am]

[Docket No. 19991, File No. BRCT-71; Docket No. 19992, File No. BPCT-4527]

RKO GENERAL, INC. (WOR-TV) AND MULTI-STATE COMMUNICATIONS, INC.

Notice of Applications

In re applications of: RKO General, Inc. (WOR-TV), New York, N.Y., Docket No. 19991, File No. BRCT-71; Multi-State Communications, Inc., New York, N.Y., Docket No. 19992, File No. BPCT-4527.

1. The Commission designated the mutually exclusive applications of RKO General, Inc. (RKO), for renewal of license to operate WOR-TV, Channel 9, New York, New York, and Multi-State Communications, Inc. (Multi-State) for a construction permit for a new television station on the same channel, for hearing by Order, 46 FCC 2d 246, released April 10, 1974. The Review Board now has before it a motion to enlarge issues, filed April 30, 1974, by RKO,[1] which seeks the addition of misrepresentation, *Suburban*, character, Rule 1.65, staffing and financial issues against Multi-State.

MISREPRESENTATION AND SUBURBAN ISSUES

2. RKO asserts that Multi-State's application misrepresents community leader interviews purportedly conducted pursuant to the Commission's *Primer*[2] guidelines. That is, RKO alleges, it has contacted sixty-three leaders listed by Multi-State who either deny or do not recall being interviewed by Multi-State's principals or representatives. Supporting affidavits are attached[3] and RKO states that they include: (a) some persons who did not recall the contacts even though they recognized the name of at least one Multi-State principal; (b) some who stated they had never been contacted and asked about community problems; (c) some who offered specific reasons as to why they would recall such a contact had it occurred; and (d) some who recalled being interviewed by RKO, but not by Multi-State. RKO contends that these materials support addition of a broad misrepresentation issue to explore whether other leaders purportedly interviewed by Multi-State were in fact contacted. RKO also submits that its allegations necessitate addition of a Suburban issue because they show that Multi-State has not established a personal dialogue with its proposed community as required by the Commission's Primer, supra. Another deficiency, RKO contends, lies in the apparent fact that a number of Multi-State's interviews were with business or other associates of its principals and thus too casual to satisfy Commission requirements. This failure, RKO concludes, also reinforces the need for a misrepresentation issue since it belies Multi-State's representation that it complied with the Primer's requirements.

3. In opposition Multi-State submits affidavits from its corporate principals responsible for conducting the disputed interviews; therein, each principal avers to the contact in question. Multi-State also submits affidavits from sixteen community leaders (of the contested sixty-three) who were recontacted and who, thereupon, either recalled the interview or stated that it was possible one took place. Some of these persons, Multi-State asserts, are in fact among those who stated in the affidavits submitted by RKO that they would recall such a survey had it occurred. This conflict in affidavits, Multi-State contends, is explained by the fact that the purported interviews took place over two years ago. Multi-State further argues that several of the printed affidavits submitted by RKO were modified by the affiants in a fashion which allegedly reduces their significance. And, Multi-State charges, at least one of the RKO affidavits was obtained by "pressuring" the affiant with the prospect of being subpoenaed to testify at a hearing in Washington, D.C. as an alternative to executing the affidavit. In response to RKO's allegations of a deficient Suburban showing, Multi-State argues that it has complied with the Primer's primary purpose of ascertaining community needs and planning responsive programming. Maintaining a continuing dialogue with community leaders, Multi-State contends, is not of principal importance, at least not until it is a licensee. Finally, Multi-State submits, its contacts with leaders were not casual, but in fact produced comments on area problems which were included in its application.

4. The Board will add the requested misrepresentation issue. Although Multi-State has submitted materials which reaffirm some of the contacts in question, it appears that a significant number of the community leaders either deny or do not recall the interviews represented in Multi-State's application. We have repeatedly held that this is sufficient grounds for addition of a misrepresentation issue. Itawamba County Broadcasting Co., Inc., 46 FCC 2d 60, — RR 2d — (1974); Belo Broadcasting Corporation, 42 FCC 2d 1011, 28 RR 2d 732 (1973); California Stereo, Inc., 39 FCC 2d 401, 26 RR 2d 887 (1973). In light of the large number of suspect contacts, we reject Multi-State's argument that the passage of time is an exculpatory factor.[4] Moreover, the submission by Multi-State of affidavits from its principals averring to the existence of the interviews is not sufficient to resolve the controversy. See WIOO, Inc., 40 FCC 2d 643, 27 RR 2d 204 (1973). In our view, however, petitioner has raised no other substantial questions as to the adequacy of Multi-State's community leader survey and therefore a separate issue inquiring into its efforts is unnecessary. RKO's claims concerning the alleged casual nature of the contacts are insufficiently detailed, and its allegations that Multi-State limited its interviews to business or other associates of its principals is based only on speculation and surmise.

CHARACTER ISSUES

5. RKO seeks issues to determine whether Multi-State has violated the registration requirements for stock issuance under the Securities Act of 1933. RKO states that Multi-State sought an exemption from filing a registration statement in connection with the issuance of its shares and subscription agreements by making its offering a private one under section 4 of the Act. However, RKO alleges, Multi-State's offering was in fact made to the public at large and particularly to a number of unsophisticated investors who required the protection the registration provisions of the Act are designed to provide. RKO lists the names of several allegedly unsophisticated subscribers to Multi-State's stock

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[1] Also before the Board are: an opposition, filed May 20, 1974, by Multi-State; a petition for acceptance of late filed pleadings, filed May 21, 1974, by the Bureau; comments, filed May 21, 1974, by the Broadcast Bureau; a reply filed June 7, 1974, by RKO; a petition for leave to file supplemental pleading, filed June 17, 1974, by Multi-State; a response to reply, filed June 17, 1974, by Multi-State; and an opposition, filed June 20, 1974, by RKO. The last three pleadings are unauthorized under our rules and, accordingly, will be dismissed.

[2] *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971).

[3] RKO asserts that it read each community leader a list of the names of the Multi-State principals when obtaining the affidavits.

[4] We also dismiss as unsupported and speculative Multi-State's claims of alleged pressure tactics employed by RKO to secure the affidavits in question.

and claims that there is nothing in the Multi-State application which would serve to appraise these persons of the allegedly risky nature of their investment. These circumstances, RKO submits, reflect on Multi-State's character as a potential licensee.

6. The Board is of the view that the matters raised herein are clearly within the province and expertise of another government agency, the Securities and Exchange Commission. As pointed out by the Broadcast Bureau, RKO has made no effort to show that it has raised these questions with that agency or that the SEC has taken any action with respect to Multi-State. It has been our usual practice not to intervene in matters of alleged violations of local or federal law where the forum entrusted with enforcement of those laws has not been consulted initially. Northeast Oklahoma Broadcasting, Inc., 40 FCC 2d 543, 27 RR 2d 144 (1973) Bangor Broadcasting Corp., 33 FCC 2d 687, 23 RR 2d 883 (1972); Lamar Life Broadcasting Company, 26 FCC 2d 112, 20 RR 2d 509 (1970). We see no reason to depart from this practice in this case, particularly since RKO's allegations are largely speculative and unsupported by substantiating facts or affidavits.[5] Cf. Lamar Life Broadcasting Company, supra; Sumiton Broadcasting Co., 15 FCC 2d 410, 14 RR 2d 970 (1968). Therefore, we will deny the requested issues.

RULE 1.65

7. RKO alleges that Multi-State's application is inaccurate or incomplete in the following respects: First, Multi-State incorrectly reported in a March 8, 1974, amendment to its application that John S. Cizek had inherited the interest in Multi-State of his father, R. Leslie Cizek, upon the latter's death on December 19, 1973. In fact, RKO claims, Cizek's will, a copy of which is attached to its pleading, names the son as a co-executor and not as stock recipient. Second, the amended application lists John P. Sellas as a subscriber although he was dropped as a subscriber in an earlier amendment; and the earlier amendment listed Anna C. Cicchelli as a subscriber although she is not listed in the March 8, 1974, amendment. Third, the balance sheets of Multi-State stockholders Basil A. Paterson and Charles O. Blaisdell, III contain statements to the effect that extensions have been sought for filing their 1971 income tax returns; however, the Multi-State application has not been amended to indicate whether either filed a return for that year.

8. In opposition, Multi-State submits that on May 17, 1974, it filed an amendment to its application which corrects or completes its earlier filings. Specifically, Multi-State avers, that amendment reports that John S. Cizek purchased the stock interest of his father, and did not inherit it as previously reported. In support of the legality of such a sale, Multi-State submits a letter from counsel for the executor of the Cizek estate and a copy of the stock transfer certificate. Multi-State also states that John P. Sellas, a 1 percent stockholder, withdrew and was replaced by Anna C. Cicchelli. The March 8, 1974, amendment, which incorrectly listed Mr. Sellas as a stockholder, is corrected by the May 17, 1974, amendment, Multi-State submits. Finally, Multi-State acknowledges, its latest amendment also supplies the 1971 income after taxes information for Messrs. Paterson and Blaisdell, III. Its errors of omission were inadvertent, Multi-State argues, and submits that no issue is warranted. In reply, RKO contends that Multi-State's may 17, 1974, amendment constitutes an impermissible upgrading of its application subsequent to designation and that Multi-State possessed the correct information but chose not to file it until RKO filed the instant motion to enlarge.[6]

9. Although it appears that Multi-State could and should have acted at an earlier date to attempt to amend its application, the Board is of the view that none of the omissions in question is serious enough to warrant the addition of an issue. Thus, the failure to accurately list the ownership of 1 percent of Multi-State's outstanding stock and the omission of the income after taxes of two of its stockholders do not in themselves reflect adversely on the applicant's qualifications; moreover, we have no reason to question Multi-State's assertion that these errors were inadvertent. With respect to the Cizek stock, RKO offers no specific support for its contention that the error involved was a significant one or that it would result in a comparative advantage to Multi-State. Also, RKO's arguments with respect to "upgrading" are more appropriately directed to the issue of good cause for post-designation amendments, i.e., the question submitted to the Presiding Judge with respect to Multi-State's May 17, 1974, amendment,[7] and do not cure its basic failure to show an intentional or serious violation of rule 1.65 by the competing applicant. For these reasons, the requested issue must be denied.

STAFFING

10. In support of its request for a staffing issue, RKO alleges that Multi-State originally proposed to broadcast seven hours and forty-eight minutes of news per week with a news department of twenty-two full time employees and an unspecified number of news stringers. On January 23, 1974, RKO contends, Multi-State upgraded its news proposal by better than fifty percent to eleven hours and forty-seven minutes, but made no adjustment in its proposed news staff. RKO refers to several stations in the New York market which it alleges carried less news programming than Multi-State proposes but with substantially greater news staffs. RKO also submits an affidavit of George W. Snowden, its Vice-President (Divisional Title) of Programming and Operations, who avers that Multi-State's proposal cannot be effectuated without an additional nine to eleven employees. Since Multi-State does not explain how it would effectuate its proposal, RKO argues, the Board should add a broad issue, not limited to only the news staff.

11. In opposition, Multi-State argues that RKO's request is supported only by the self-serving statement of one of its principals. RKO's reference to other stations in the New York area is misleading, Multi-State contends, because there is no logical relationship between the number of hours of news and the news staff.[8] Moreover, Multi-State submits, the comparisons are faulty because they do not detail the proportion of network news involved. Finally, Multi-State maintains, RKO's request for a staffing issue to include all program activities is totally unsupported.

12. The Board will deny the requested issue. RKO's mere recitation of Multi-State's news programming proposal and assertion that the related staff is inadequate are insufficient grounds for addition of an issue. Cf. Radio Geneva, Inc., 42 FCC 2d 254, 27 RR 2d 1680 (1973). As the Broadcast Bureau points out, differences between Multi-State's proposal and those of licensees in the New York area may only reflect differences in judgment, and not an inadequate proposal. In our view, Multi-State's proposal for twenty-two news employees plus stringers is not on its face unreasonable, and in the complete absence of specific allegations from RKO to challenge the proposal, we will not add an issue. See Radio Geneva, Inc., supra; Colorado West Broadcasting, Inc., 39 FCC 2d 407, 26 RR 2d 893 (1973); Jay Sadow (WRIP), 27 FCC 2d 248, 20 RR 2d 1171 (1971). Finally, in light of the absence of any showing of inadequacy of Multi-State's proposed news staff, a general staffing issue is equally unwarranted.

FINANCIAL

13. RKO seeks issues to determine whether Multi-State will have sufficient funds (a) to meet payments on a proposed bank loan during its first year of operation and (b) to sustain the proposed station during the second year of operation. With respect to (a), RKO states that Multi-State plans to rely on a $4

[5] We note in this respect the affidavit of Charles O. Blaisdell, president of Multi-State, submitted with its opposition, which recites a business or social relationship with each of Multi-State's twenty-three stockholders.

[6] RKO also submits that Multi-State has violated rules 1.594(a) and (d) involving local notice of designation for hearing. These allegations, however, require no further discussion because they are inappropriately placed in a reply pleading. See *Industrial Business Corp.*, 40 FCC 2d 69, 26 RR 2d 1447 (1973).

[7] By Order, FCC 74M-669, released June 11, 1974, the Presiding Judge accepted Multi-State's amendment.

[8] That is, Multi-State points out, WNEW-TV and WOR-TV programmed 6:03 and 6:30 hours of news per week respectively; yet WNEW-TV employed a staff of forty-six and WOR-TV had a staff of twenty.

million loan from the Chase Manhattan Bank but has failed to plan for at least $702,667 in payments on the loan due during the first year. Specifically, RKO explains that Multi-State will borrow $1,140,000 of the total at the date of grant, that it proposes to go on the air six months after grant of a construction permit, and that its bank letter will require principal repayments falling in its sixth and twelfth months of operation. These payments, RKO asserts, will be $142,500 each and interest for the 18-month period will be $114,713. In addition, RKO asserts, Multi-State will owe interest on the remaining $2,860,000 and at least one semi-annual principal payment totalling together another $302,954. Moreover, RKO alleges, the lending bank's prime interest rate has more than doubled since the time of Multi-State's loan agreement, and RCA, from whom Multi-State has an equipment credit, has raised its discount finance rate from 4.5 percent to 7 percent. These increases, RKO submits, will add $233,789 to Multi-State's interest expense on its bank loan and nearly $6,000 per month to its equipment payments.[9] With respect to (b), RKO argues that Multi-State's financial proposal must be carefully scrutinized because it proposes to defer substantial equipment and loan repayments beyond the first year of operation. RKO alleges that Multi-State's payments will be at least $818,545 in the first year ($702,667 in loan payments and $115,878 in equipment payments) and $1,837,624 in the second year ($695,184 for equipment payments, $1 million for loan payments, and interest of $192,500), for a two year total of $2,705,729. RKO contends that Multi-State will virtually exhaust its capital and loan funds by the end of its first three months of operation and will therefore have to rely on profits to meet its heavy debt schedule. However, RKO submits, Multi-State has neglected to provide or has inadequately provided for several expenses such as antenna cost and legal and engineering fees, and has modified various other expense items by recent amendment without explanation. In these circumstances, RKO argues that an inquiry into Multi-State's financial viability in the second year of operation is required.

14. In opposition to the first requested issue, Multi-State contends that it has sufficient funds to meet all expenses including equipment down payments during its first three months of operation, and that it will meet all operating expenses after that period including repayments of bank loans and equipment payments through estimated revenues of $11,441,000 during the last nine months of the first year. Multi-State claims that its construction and three month operating expenses amount to $4,099,150 and that they will be met by capital and loan funds of $4,314,252, leaving a surplus of $215,102. Apart from the down payment, Multi-State maintains, no other equipment payments will be required until after the first three months of operation when they will be met by station revenues. Interest on the bank loan, except for the first payment, and principal also will not be due until after the first three months, Multi-State argues, and can be met by revenues. Multi-State contends that the allegations regarding increased interest rates by RCA and Chase Manhattan are speculative, but that, in any case, its cash requirements during the first three months would not be significantly affected by such changes, and later increases could be met by relying on revenues. With respect to its second year of operation, Multi-State submits figures showing that New York City television stations generated average revenues of $19,928,593 in 1972 and average profits of $4,795,413. These amounts, Multi-State contends, are more than enough to offset additional expenses RKO alleges it will incur. Multi-State submits that RKO has cited no precedent which would support an inquiry into second year operating costs of an applicant for an existing facility, as opposed to a new station. For these reasons, no question as to the adequacy of its allocated funds has been raised, Multi-State concludes.

15. The Board will deny the requested issues. The dispute before us essentially involves the question of when an applicant may look to anticipated station revenues to support its financial showing. Whereas, ordinarily, an applicant seeking to rely on revenues would need to demonstrate the availability of that revenue,[10] in renewal proceedings, such as this one, no such showing is necessary because of the licensee's history of advertising revenue. Thus, an applicant such as Multi-State must establish its ability to meet its costs of construction and operation for a three month period until the previously established revenues can be generated.[11] Thereafter, in our view, an applicant may look to revenues to meet costs as they fall due, including repayments of loans. RKO's position, we believe, is not in accordance with that of the Commission in its most recent designation Orders in renewal proceedings including the instant one. See CBS, Inc., FCC 74-363, — FCC 2d —, released April 24, 1974; Post-Newsweek Stations of Florida, Inc., FCC 74-362, — FCC 2d —, released April 24, 1974. Therefore, in light of the substantial revenues available to VHF television stations in the New York market, we perceive no reason to modify the financial issue in this proceeding to inquire into Multi-State's ability to meet its first year loan repayments.[12] With respect to the second year of operation, the situation is similar. In the past, the Commission has in some cases expressed concern as to an applicant's continuing financial ability where, inter alia, it had deferred substantial loan repayments to the second year, had a high debt to equity ratio, and had not shown an ability to raise necessary second year funds through revenues or other sources. See Lexington County Broadcasters, Inc., 40 FCC 2d 694, 27 RR 2d 416 (1973). In this case, however, the average figures for revenue and profit in the New York area submitted by Multi-State are substantial[13] and, in our view, are more than adequate to meet second year loan and equipment payments as well as those continuing operating costs RKO alleges are not adequately budgeted for. Moreover, RKO's allegations in the latter respect are either cumulative because some of these costs were placed in issue by the designation Order, or totally unsupported by affidavits or other substantiation. For these reasons, the second requested financial issue will also be denied.

16. *Accordingly, it is Ordered,* That the petition for acceptance of late filed pleadings, filed May 21, 1974, by the Broadcast Bureau, *is Granted;* and

17. *It is Further Ordered,* That the petition to file supplemental pleading and response to reply, both filed June 17, 1974, by Multi-State Communications, Inc., and the opposition to petition for leave to file supplemental pleading, filed June 20, 1974, by RKO General, Inc., *are Dismissed;* and

18. *It Is Further Ordered,* That the motion to enlarge issues, filed April 30, 1974, by RKO General, Inc., *is Granted* to the extent indicated herein, and *is Denied* in all other respects, and that the issues in this proceeding *are Enlarged* as follows: To determine, whether Multi-State Communications, Inc. misrepresented facts to the Commission in connection with its survey of community leaders, and, if so, to determine the effect of this conduct on the qualifications of Multi-State Communications, Inc. to be a Commission licensee.

19. *It Is Further Ordered,* That the burden of proceeding with the introduction of evidence under the issue added

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[9] RKO also argues that interest under the RCA letter of credit was incorrectly computed in the designation Order to be $17,027, but should be $21,284.

[10] *Ultravision Broadcasting Co.,* 1 FCC 2d 545, 5 RR 2d 343 (1965).

[11] *Orange Nine, Inc.,* 7 FCC 2d 788 (1967).

[12] Nor will we authorize an inquiry into the applicable interest rates. Both the equipment letter and the bank letter specify that the rates will be those current at the time of shipment or advance and it does not appear to us unreasonable for the applicant to have based its estimates on the rates in effect at the time it filed its application. See *Belo Broadcasting Corp.,* 41 FCC 2d 703, — RR 2d — (1974).

[13] We also note that neither the bank loan nor the equipment credit proposed by Multi-State are to be paid entirely during the second year of operation. Compare *5KW, Inc.,* 33 FCC 2d 895, 23 RR 2d 1015 (1972), where the Commission viewed such an arrangement as significant in designating an inquiry into the second year of operation costs.

herein *Shall be* on RKO General, Inc. and the burden of proof *Shall be* on Multi-State Communications, Inc.

Adopted: June 28, 1974.

Released: July 5, 1974.

[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-15858 Filed 7-10-74;8:45 am]

FEDERAL POWER COMMISSION

[Rate Schedule Nos. 37, etc.]

RATE CHANGES

Notice of Filings Pursuant to Commission's Opinion No. 639

JULY 2, 1974.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the applicable area new gas ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 639, issued December 12, 1972.

The information relevant to each of these sales is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filings should on or before July 23, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Filing date	Producer	Rate Schedule No.	Buyer	Area
June 13, 1974	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	37	Texas Eastern Transmission Corp.	Texas Gulf Coast.
Do	Mobil Oil Corp., 3 Greenway Plaza, East-Suite 800, Houston, Tex. 77046.	292	Arkansas Louisiana Gas Co.	Other Southwest.
June 17, 1974	Skelly Oil Co., P.O. Box 1650, Tulsa, Okla. 74102.	228	Lone Star Gas Co	Do.
Do	do	1	do	Do.
Do	Mapco Inc., 1437 South Boulder Ave., Tulsa, Okla. 74119.	15	Northern Natural Gas Co	Permian Basin.
Do	Sun Oil Co., Southland Center, P.O. Box 2880, Dallas, Tex. 75221.	269	United Gas Pipe Line Co	Texas Gulf Coast.
Do	do	270	do	Do.
Do	do	275	do	Do.
Do	do	276	do	Do.
Do	do	283	do	Do.
Do	do	288	do	Do.
Do	do	289	do	Do.
June 18, 1974	Phillips Petroleum Co., Bartlesville, Okla. 74004.	10	El Paso Natural Gas Co	Permian Basin.
Do	do	64	do	Do.
Do	do	65	do	Do.
Do	do	151	do	Do.
Do	do	359	do	Do.
Do	do	363	do	Do.
June 19, 1974	Lone Star Producing Co., 301 South Harwood, Dallas, Tex. 75201.	100	United Gas Pipe Line Co	Texas Gulf Coast.

[FR Doc.74-15655 Filed 7-10-74;8:45 am]

[Docket No. E-8844]

ASSOCIATED ELECTRIC COOPERATIVE, INC.

Notice of Letter Agreement

JULY 3, 1974.

Take notice that on June 11, 1974 the Union Electric Company filed with the Federal Power Commission copies of a Letter Agreement dated May 22, 1974, between Associated Electric Cooperative, Inc. (AEC), and Union Electric Company (UE). This Agreement establishes additional interconnection points under the Interchange Agreement between the parties dated March 27, 1968, as amended.

Under the Agreement, AEC will construct a new substation (Palmyra Substation) in the vicinity of Palmyra, Missouri. The substation will be located on UE's existing Pike Viele 161 kv line. The substation will include facilities to terminate (1) UE's 161 kv line from Pike substation, (2) UE's 161 kv line from Viele substation, (3) a 345 kv line from a tap on UE's Montgomery-Hills line, (4) a 161 kv line which will be extended from Illinois by UE, and (5) a 161 kv line from AEC's South River substation. UE agrees to construct a 345-kv line from a tap on its Montgomery-Hills 345 kv line to supply the Palmyra substation and to build a 161 kv line from Illinois to AEC's Palmyra substation. Facilities described in items (1), (2) and (5) above were placed in service on May 10, 1974, and the remaining facilities are scheduled to go in service in the near future.

Applicants allege that the connections referred to above are desirable to increase UE's interchange capability with AEC, to provide support for UE's Sioux-East Quincy and Pike Viele lines, and to increase UE's ability to supply its loads and loads of its subsidiaries, Missouri Power & Light Company and Missouri Edison Company, which are connected to the above-mentioned Sioux-East Quincy and Pike Viele lines.

Applicants request that the Agreement be permitted to become effective as of May 10, 1974.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 18, 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 is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-15805 Filed 7-10-74;8:45 am]

[Docket No. CP73-329]

CHATTANOOGA GAS CO.

Proposed PGA Rate Adjustment

JULY 3, 1974.

Take notice that on June 20, 1974, Chattanooga Gas Company (Chattanooga), tendered for filing proposed changes to Original Volume No. 1 of its FPC Gas Tariff to be effective on July 1, 1974, consisting of the following revised tariff sheets:

Third Revised Sheet No. 5 and Third Revised Sheet No. 6, and, alternatively, Substitute Third Revised Sheet No. 5 and Substitute Third Revised Sheet No. 6.

Chattanooga states that the sole purpose of these Revised Tariff Sheets is to adjust Chattanooga's LNG rates pursuant to the PGA provision in section 5 of the General Terms and Conditions of its FPC Tariff to reflect increased purchased gas costs resulting from rate increases by its suppliers, Southern Natural Gas Company (Southern), in Docket No. RP72-91 (Phase II) et al., and RP73-64 and East Tennessee Natural Gas Company (East Tennessee) in Docket No. RP71-15, et al.

Chattanooga requests that its Third Revised Sheet No. 5 and Third Revised Sheet No. 6 be made effective on July 1, 1974 or on such other date as the underlying filing of East Tennessee of June 7, 1974, reflecting the R&D adjustment of Tennessee Gas Pipeline Company in Docket No. RP74-73, becomes effective. Chattanooga further states that it is relying on its alternative rate increase re-

flected on Substitute Third Revised Sheet No. 5 and Substitute Third Revised Sheet No. 6 to be effective on July 1, 1974 in the event Third Revised Sheet No. 5 and Third Revised Sheet No. 6 are not accepted to be effective on July 1, 1974.

Chattanooga states that copies of the filing have been mailed to all of its jurisdictional customers.

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 July 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-15807 Filed 7-10-74;8:45 am]

[Docket No. E-8847]

NEW ENGLAND POWER CO.

Extension of Time

JULY ?, 1974.

On June 28, 1974, New England Power Company filed a motion for an extension of time to answer the petition of Rhode Island Consumers' Council to convene a joint hearing board. The motion states that Counsel for the Council does not oppose the motion.

Upon consideration, notice is hereby given that the time is extended to and including July 15, 1974, within which answers may be filed to the above motion.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-15808 Filed 7-10-74;8:45 am]

[Docket Nos. E-7795, E-7989]

PHILADELPHIA ELECTRIC CO.

Contract Filing

JULY 3, 1974.

Take notice that Philadelphia Electric Company (Philadelphia) on June 21, 1974 filed an agreement in purported compliance with FPC Order issued June 4, 1974 at Docket Nos. E-7795 and E-7989. The agreement, dated November 12, 1971, is between Philadelphia and the Borough of Lansdale and covers electric service for Lansdale.

Any person desiring to be heard or to protest such filing should file such comments 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 comments or protests should be filed on or before July 15, 1974.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-15809 Filed 7-10-74;8:45 am]

[Docket No. RP73-47]

SEA ROBIN PIPELINE CO.

Further Extension of Time and Postponement of Hearing

JULY 3, 1974.

On June 27, 1974, Sea Robin Pipeline Company filed a motion for a further extension of time and postponement of the hearing as fixed by notice issued June 14, 1974, in the above-designated matter. On June 26, 1974, Staff Counsel filed a motion to untimely serve supplemental testimony on June 26, 1974. The motion states that no objections to the proposed extension of the procedural dates had been received.

Upon consideration, notice is hereby given that the procedural dates in the above matter are further modified as follows:

Service of Staff's supplemental testimony, June 26, 1974.
Service of Company's Rebuttal, July 17, 1974.
Hearing, August 27, 1974 (10:00 a.m., e.d.t.)

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-15810 Filed 7-10-74;8:45 am]

[Docket No. RP73-49]

SOUTH GEORGIA NATURAL GAS CO.

Revision to Tariff

JULY 3, 1974.

Take notice that on June 10, 1974, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of Original Volume No. 1 to its FPC Gas Tariff the following revised tariff sheets:

Seventh Revised Sheet No. 3A
Thirty-Second Revised Sheet No. 5
Thirty-First Revised Sheet No. 6
Twenty-Third Revised Sheet No. 9
Twenty-Second Revised Sheet No. 11
Twenty-Sixth Revised Sheet No. 12B

South Georgia states that the above sheets represent a rate change under its PGA clause, such clause approved to become effective April 14, 1973, by Commission Order in FPC Docket No. RP73-49 issued April 13, 1973. The company further states that it proposes to increase its rates $102,321 for the purpose of tracking a rate increase filing by Southern Natural Gas Company (Southern) on June 7, 1974, which would increase South Georgia's cost of gas $173,225 annually. An effective date of July 22, 1974 is requested.

South Georgia has requested waiver of the forty-five (45) day notice requirement as set forth in § 14.2(e) of the General Terms and Conditions of South Georgia's FPC Gas Tariff. South Georgia states that knowledge of Southern's filing, which South Georgia proposes to track, was not known to South Georgia until June 7, 1974 making it impossible for South Georgia to comply with the forty-five (45) day notice requirement.

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, 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 July 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-15811 Filed 7-10-74;8:45 am]

[Docket No. RP74-71-2]

SOUTHERN NATURAL GAS CO. AND ATLANTA GAS LIGHT CO.

Order Setting Hearing on Emergency Relief, Order To Show Cause, and Directing Presentation of Evidence

JULY 3, 1974.

Southern Natural Gas Company (Southern) advised the Commission by letter dated June 24, 1974, that it had authorized Atlanta Gas Light Company (Atlanta) to purchase for 15 days commencing June 24, 1974, up to 90,000 Mcf per day of natural gas on an emergency basis for resale for Georgia Power Company (Georgia Power) at its Yates Electric Generating Station. Atlanta stated in its request to Southern dated June 21, 1974, that it was unable to provide assistance requested by Georgia Power without receiving additional volumes from Southern and requested the relief pursuant to § 9.5 of Southern's tariff. Georgia Power requested relief from Atlanta by letter dated June 21, 1974, based on the following factors: (1) at present time, Georgia Power had less than 15 days stock pile of coal at Yates and this stock pile was inadequate to assure continuing reliability in the use of the plant's capacity; (2) stock pile deficiency is attributed to shortage of railroad cars, work stoppages, mining problems, hoarding coal in preparation of an anticipated strike and conversions of industries from oil to coal; (3) Georgia Power has been unable to purchase coal on the spot market and has been unable to arrange shipments from other plants; (4) other electric generating plants are out of service or inoperable; and (5) loss of Yates 1250 MW cannot be made up from other generating sources in the Southern System and the loss of the Yates plant would seriously impair the reliability of its sys-

tem and could result in shedding firm load.

Atlanta has a present contract demand from Southern of 737,000 Mcf per day and 107,600 Mcf per day from Transcontinental Gas Pipe Line Corporation.

In Southern's letter of June 24, 1974, of its action taken commencing on June 24 on relief to Atlanta, it stated its action was pursuant to § 157.22 of the Commission's regulations and § 9.5 of its currently effective curtailment plan.

Section 157.22 does not authorize a pipeline company such as Southern to perform actions such as the sale of 90,000 Mcf per day to Atlanta, as § 157.22 was designed for the purpose of permitting pipelines to arrange for their own supplies on an emergency basis, e.g., other interstate pipeline companies or independent producers. Therefore, Southern's action must be evaluated in terms of its currently filed curtailment plan which in § 9.5 permits variations in curtailment procedures when necessary to avoid damage to industrial plant or spoilage of products during emergency situations. As neither of these circumstances is alleged by Atlanta in its letter to Southern, it will be necessary for this matter to be set for immediate hearing to determine: (a) whether Southern acted properly in this matter; and (b) whether an immediate repayment of the gas volumes received should be directed by the Commission. In evaluating such requests for assistance, distributors are obligated to consider their own gas supplies and present end uses by their customers before calling upon the pipeline company for assistance. Thus, Atlanta will be directed to show cause why it should not have curtailed part of its summer market in Priorities 4 through 7 of Order No. 467 in order to provide assistance to Georgia Power. As part of Atlanta's presentation, Georgia Power may wish present evidence of its fuel situation and an explanation as to why alternative measures such as reduced voltage operation, interruption of nonfirm loads, and purchase of power were not satisfactory alternatives to consuming scarce supplies of natural gas.

A prompt hearing is being directed in this matter so that the validity of the procedures used by Southern in circumstances such as these can be promptly evaluated by the Commission.

All parties which are interveners in Southern's curtailment proceeding, Docket No. RP74-6, will be considered as parties to the hearing hereafter ordered. No further petitions need to be filed by such parties in order to participate in this hearing. Any other party seeking to intervene shall file a notice of intervention or petition within 15 days of issuance of this order and may participate in the hearing pending action by the Commission on such notice or petitions.

The Commission orders:

(A) Pursuant to the provisions of the Natural Gas Act, particularly sections 4 and 5 and 16 thereof and the rules and regulations thereunder, a public hearing will commence at 10:00 a.m. e.s.t. in a hearing room of the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426 on July 9, 1974, to consider the matters set out more fully in the body of this order. Southern is directed to show cause as to whether it acted properly in these circumstances and whether Atlanta should be required to immediately pay back all volumes of gas taken pursuant to the asserted emergency situation described above.

(B) All parties to the present proceeding in Docket No. RP74-6 will be considered as parties to the instant proceeding; any other persons having an interest herein shall file a notice of intervention or petition to intervene within 15 days hereof. During the interim period, new parties will be permitted to participate in the proceeding pending action by the Commission on their notices of intervention or petitions to intervene.

(C) Southern Natural Gas Company, and Atlanta Gas Light Company shall present evidence at the hearing ordered in paragraph (A) above to support their positions and to provide all of the necessary information to the Commission in order that a decision may be promptly made on the issues raised by these actions. No other answer, written or oral, is required in this proceeding to the order to show cause, except, of course, the required evidence in the hearing.

(D) A Presiding Administrative Law Judge to be assigned by the Chief Administrative Law Judge shall preside at the hearing ordered above and shall control the proceedings thereafter.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74-15812 Filed 7-10-74;8:45 am]

[Docket No. RP71-11, etc.]

TENNESSEE NATURAL GAS LINES, INC.

Proposed Rate Changes Under Tariff Rate Adjustment Provisions

JULY 3, 1974.

Take notice that on June 14, 1974, Tennessee Natural Gas Lines, Inc. (Tennessee Natural) tendered for filing alternative proposed changes to First Revised Volume No. 1 of its FPC Gas Tariff to be effective on July 1, 1974, consisting of the following revised tariff sheets:

Seventh Revised Sheet No. PGA-1
Second Revised Sheet No. PGA-2 and, alternatively,
Alternate Seventh Revised Sheet No. PGA-1
Alternate Second Revised Sheet No. PGA-2

Tennessee Natural states that the sole purpose of the sheets tendered for filing is to track, alternatively, the PGA rate filings of its sole supplier, Tennessee Gas Pipeline Company (Tennessee), made on May 16, 1974 (as corrected on May 23, 1974) and on June 7, 1974, both of which PGA rate filings by Tennessee are proposed to be effective July 1, 1974.

Tennessee Natural proposes that the appropriate set of tariff sheets tendered for filing (depending upon which PGA filing by Tennessee is allowed to become effective) become effective on July 1, 1974 and requests waiver of all necessary notice requirements in order to allow such sheets to become effective on such date.

Tennessee Natural states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory 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 July 19, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene, provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-15813 Filed 7-10-74;8:45 am]

[Docket No. RP73-94]

VALLEY GAS TRANSMISSION, INC.

Further Extension of Time and Hearing Postponement

JULY 3, 1974.

On June 24, 1974, a notice of further extension of time and postponement of the hearing was issued. The notice did not schedule a prehearing conference.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Service of Rebuttal Evidence by Valley Gas Transmission, Inc., July 12, 1974.
Prehearing Conference, July 16, 1974 (10:00 a.m. e.d.t.)
Hearing, to commence at the conclusion of the Prehearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-15814 Filed 7-10-74;8:45 am]

FEDERAL RESERVE SYSTEM

THE ALABAMA FINANCIAL GROUP, INC.

Order Approving Application To Engage De Novo in Certain Insurance Agency Activities

The Alabama Financial Group, Inc.,[1] Birmingham, Alabama ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act, on February 24, 1972, applied to the Federal Reserve Bank of Atlanta for approval, under section 4(c)(8) of the Act, as amended, and § 225.4(a)(9) of the

[1] In April, 1974, Applicant's corporate name was changed to Southern Bancorporation.

Board's Regulation Y (12 CFR 225.4(a)(9)), to engage de novo in certain insurance agency activities at various locations in Alabama at which Applicant or its banking and bank-related subsidiaries are otherwise engaged in business, through an insurance agency subsidiary ("Agency") to be formed by Applicant.

Applicant proposes through Agency to act as insurance agent or broker with respect to:

1. All insurance for Applicant and its subsidiaries.
2. Any insurance to protect assets financed by Applicant and its subsidiaries and other insurance calculated to protect the lender's ability to obtain repayment of loans including:
   a. fire and extended coverage insurance
   b. use and occupancy insurance
   c. business interruption insurance
   d. liability insurance
   e. homeowners insurance
   f. performance bonds connected with construction loans
   g. boiler and machinery insurance
   h. fidelity insurance
   i. theft insurance
   j. collision and comprehensive insurance
   k. surety bonds
   l. marine property insurance
3. Any insurance the purpose of which is to provide loan or repayment funds in the event of loss of income or other inability to repay debt including:
   a. credit life and credit accident and health insurance
   b. mortgage life or mortgage guaranty insurance
4. Convenience insurance within the limitations of Regulation Y.
5. A full line of general insurance at offices located in communities having less than 5,000 population.

Applicant proposes to sell such insurance only in connection with extensions of credit or the provision of other financial services, or as a matter of convenience to the purchaser within the limits of Regulation Y, or in communities with less than 5,000 population. The sale of certain types of insurance is an activity that has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(9)).

Notice of the application was published in the communities to be served in accordance with § 225.4(b)(1) of the Board's Regulation Y. Objections to the application, requesting a hearing and seeking permission to intervene, were filed by the National Association of Insurance Agents ("NAIA"), the Alabama Association of Insurance Agents ("AAIA"), the Independent Insurance Agents of Birmingham ("IIAB"), and U.S. Fidelity and Guaranty Company ("USF&G"). On March 29, 1972, the Federal Reserve Bank of Atlanta stayed the proceeding and requested that the Board act directly on the application.

By order dated March 6, 1973, the Board directed that a formal hearing be held on the subject application, as well as 21 other pending applications by bank holding companies to engage in certain insurance agency activities (38 FR 6441), before a designated Administrative Law Judge ("Law Judge"). In addition to the parties designated above, other parties sought and were granted permission to participate in the proceeding, including the American Bankers Association ("ABA"), National Association of Casualty & Surety Agents ("NACSA"), and the Committee to Preserve Consumer Options ("CPCO"), an association of 28 banking institutions including most of the applicant bank holding companies in other docketed insurance agency applications then pending before the Board.

Following a prehearing conference in Washington, D.C., on March 27, 1973, a public hearing was held on this application in Atlanta, Georgia, on June 25–26, 1973.[2] The hearings and related proceedings have been conducted in accordance with the Board's Rules of Practice for Formal Hearings (12 CFR 263).

In a Recommended Decision of February 7, 1974, the Administrative Law Judge concluded that the evidence supported a partial approval of the application and recommended:

(1) That the application of the Alabama Financial Group be granted with respect to proprietary and employee insurance and for credit life, health and accident and mortgage redemption insurance but denied as to all other forms of insurance in Birmingham, Dothan and Marion County, Alabama.

(2) That the application be granted as to credit-related insurance agency sales except surety bonding to customers of banking and nonbanking affiliates located in Huntsville, Mobile and any other area in which a banking subsidiary may be acquired in which said subsidiary controls less than 15 percent of local deposits.

(3) That, in those respects in which the application is granted, the authorization be subject to appropriate anticoercion statements to be furnished for execution by loan/insurance customers as part of their applications.

The Board, having considered the exceptions taken to the Recommended Decision by the various parties and the entire record, and having determined that the Administrative Law Judge's findings of fact, conclusions, and order, as modified and supplemented herein, should be adopted as the findings, conclusions, and order of the Board, now makes its findings as to the facts, its conclusions drawn therefrom, and its order.

Applicant controlled four banking subsidiaries as of December 30, 1972, with aggregate deposits of $676.8 million. These subsidiaries were located in Jefferson, Houston, Madison and Mobile Counties. Applicant predicts that its proposed agency will generate approximately $200,000 in annual premiums from the requirements of the holding company and its subsidiaries, and approximately $600,000 in annual premiums from the sale of credit life and credit accident and health insurance. Applicant stated that it was unable to make reasonable projections of premium income from the sale of other types of insurance.

[2] Board counsel participated in the hearing in a nonadversary capacity but took no position with respect to the merits of the application (12 CFR 263.6(d)).

The principal issues before the Board that arise from this application are: (1) Whether the proposed insurance agency activities are permissible activities under § 225.4(a)(9) of Regulation Y and are therefore so closely related to the business of banking or managing or controlling banks as to be a proper incident thereto; (2) whether performance of the proposed activities can reasonably be expected to produce benefits to the public such as greater convenience, increased competition, or gains in efficiency, and (3) whether such benefits to the public outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests or unsound banking practices. The Board has previously determined by Regulation (12 CFR 225.4(a)(9)) that the following activities are so closely related to banking or managing or controlling banks as to be proper incident thereto.[3]

Upon reviewing the legislative history to the 1970 Amendments to the Bank Holding Company Act, the Law Judge concluded that "the Congress clearly had credit-related insurance agency sales in mind as an enterprise closely related to banking subject, however, to surviving

[3] The Board's Insurance Regulation was adopted after notice of proposed rule-making and following receipt of comments on the substance of the proposed regulation. The insurance activities authorized by the regulation are those that are organizationally and physically integrated into the operations of the bank holding company. The Board's decisions in this area prior to the 1970 Amendments to the Act are generally to the same effect (see, for example, Otto Bremer Company 1959 *F.R. Bull.* 892; First Bank Stock Corporation 1959, *F.R. Bull.* 917; and United Virginia Bancshares, Inc., 1970 *F.R. Bull.* 599.)

Members of both Houses of Congress referred to the Board's prior decisions during the legislative debate to the 1970 amendments. A member of the Conference Committee, Senator Bennett, stated: "The Federal Reserve Board under the existing language of § 4(c)(8) for the past 14 years has approved insurance activities for bank holding companies and there was no intent on the part of the Conference Committee to overrule these past decisions". *Congressional Record* S20645, December 18, 1970.

(9) acting as insurance agent or broker in offices at which the holding company or its subsidiaries are otherwise engaged in business (or in an office adjacent thereto) with respect to the following types of insurance:

(i) Any insurance for the holding company and its subsidiaries;

(ii) Any insurance that (a) is directly related to an extension of credit by a bank or a bank-related firm of the kind described in this regulation, or (b) is directly related to the provision of other financial services by a bank or such a bank-related firm, or (c) is otherwise sold as a matter of convenience to the purchaser, so long as the premium income from sales within this subdivision (ii)(c) does not constitute a significant portion of the aggregate insurance premium income of the holding company from insurance sold pursuant to this subdivision (ii);

(iii) Any insurance sold in a community that (a) has a population not exceeding 5,000 or (b) the holding company demonstrates has inadequate insurance agency facilities.

the gamut of a net public benefits test * * *" page 17. The Board's own understanding of the legislative history to the 1970 Amendments is consistent with that of the Law Judge and formed the basis upon which the above-described Insurance Regulation was promulgated. Although no precise guidelines were given the Board for making its determination of those activities which are closely related to banking, the legislative history of the 1970 Amendments to the Bank Holding Company Act include, as the Law Judge noted, references to sales of credit-related insurance as examples of activities closely related to banking. The Law Judge's review of the legislative history was described fully in companion Recommended Decisions[4] to which he referred in his Recommended Decision in the instant matter. Indeed, in a companion Recommended Decision issued November 9, 1973, the Law Judge found that "the business of selling general insurance" was an activity so closely related to banking as to be a proper incident thereto. However, the Applicant in this proceeding has not sought the Board's prior approval to operate a general insurance agency. Instead, Applicant listed in its application those specific insurance coverages it contemplated selling and for which prior Board approval is sought.

The insurance Applicant seeks to sell under No. (1) above (all insurance for Applicant and its subsidiaries) has been specifically permitted under § 225.4(a)(9)(i) of the Board's Insurance Regulation. By a published Interpretation to this Regulation, the Board has further indicated that it regards the sale of group insurance for the protection of employees of the holding company as insurance for the holding company and its subsidiaries within § 225.4(a)(9)(i). However, NAIA argued that the sale of group insurance and fidelity insurance on employees would not be closely related to banking where the employees pay part of the premiums. Regardless of which party pays the premium, the Board views the protection of a bank holding company's employees through group insurance as a distinct benefit to the holding company itself. Thus, the provision of group insurance protecting a holding company's employees is no less "for the holding company" than would be insurance on real property owned by the holding company. Accordingly, the Board finds that the sale of insurance for the holding company and its subsidiaries, including group insurance for the protection of employees of Applicant, to be a permissible activity under § 225.4(a)(9)(i) of the Insurance Regulation.

Applicant seeks to sell various forms of insurance under No. (2) above that protects the collateral in which a subsidiary has a security interest as a result of an extension of credit. Included among these coverages are physical damage insurance on real estate and physical damage insurance on personal property. Applicant contends, and the Board so finds, that such coverages are directly related to an extension of credit within the meaning of § 225.4(a)(9)(ii)(*a*) of the Insurance Regulation. The extension of credit on a secured loan is founded upon the value of the collateral securing the loan. Thus, insurance is essential from the lender's standpoint to assure that the value of the collateral will not be impaired by physical damage. The financial nature of the insurance transaction forms an integral function for the borrower as well, since the presence or lack of insurance protecting loan collateral is an essential element of credit evaluation. The evidence of record confirms, in the Board's view, that the sale of insurance protecting the collateral securing an extension of credit is directly related to such extension of credit. The Board notes further that this finding is in accord with its previously published interpretation (12 CFR 225.128) pertaining to insurance that supports the lending transactions of a bank or bank-related firm in the holding company system.

Applicant also seeks Board approval to sell liability insurance on both real and personal property, as described above, when a subsidiary has taken a security interest in such property as the result of an extension of credit. It appears from the evidence of record that liability insurance is generally sold in conjunction with or as part of an insurance package with insurance that protects the collateral securing an extension of credit. Thus, a "packaged" insurance policy, combining liability insurance with insurance relating to physical damage on property purchased from loan proceeds, fulfills a legitimate need of the lender and borrower alike at the time a loan is made. Moreover, in the case of homeowner's insurance, it appears that it would not be economical for a borrower to procure separately the various coverages customarily packaged in such a policy. The Board concludes from all the evidence of record that the sale of liability insurance on both real and personal property supports the lending transactions of a bank or bank-related firm in the holding company system when it is sold to borrowers in conjunction with or as part of an insurance package with insurance protecting the collateral in which the bank or bank-related firm has a security interest and is a permissible activity within § 225.4(a)(9)(ii)(*a*) of the Insurance Regulation.

Applicant has also requested permission to sell surety bonds. Such bonds would include bid bonds (guaranteeing a successful bidder on a building contract will enter into the contract), subdivision bonds (guaranteeing to a municipality that the builder will make all required improvements) and completion or performance bonds (insuring against a maintenance contractor's failure to maintain its obligation under a maintenance agreement). The procurement of the coverages involved through surety bonds has traditionally been a part of a mortgage loan transaction. In the Board's judgment, a direct relationship exists between the sale of surety bonds and an extension of credit. Accordingly, the sale of surety bonds is, in the Board's view, an activity within § 225.4(a)(9)(ii)(*a*) of the Insurance Regulation.

The Board finds, with three exceptions, that the several types of insurance listed under No. (2) above are either property insurance or liability insurance sold as part of a package with property insurance on assets financed by Applicant and therefore within § 225.4(a)(9)(ii)(*a*) of the Insurance Regulation. The exceptions are (1) use and occupancy insurance, (2) business interruption insurance, and (3) fidelity insurance. Little or no evidence was presented concerning these types of insurance. Accordingly, there is insufficient evidence in this record upon which the Board may conclude that any of the insurance noted in the exceptions above fall within § 225.4(a)(9)(ii)(*a*) or (*b*) of the Insurance Regulation.

Applicant has requested prior Board approval to engage in the sale of credit life, credit accident and health, mortgage redemption and mortgage guaranty insurance. With the exception of mortgage guaranty insurance, the Board has previously determined by order[5] that the sale of these forms of insurance was so closely related to banking as to be a proper incident thereto within the meaning of § 225.4(a)(9) of the Insurance Regulation. The previous findings of the Board concerning such coverages are reaffirmed herein since such insurance is often required to assure repayment of an extension of credit by the holding company system in the event of death or disability of the borrower. Under these conditions, the Board finds that the sale of such insurance is directly related to an extension of credit. Mortgage guaranty insurance is a form of credit risk insurance that serves to protect the lender against loss of a specified percentage of a loan in the event of foreclosure and sale of collateral. In this respect, it may be likened to mortgage redemption insurance. The Board therefore concludes that the sale of mortgage guaranty insurance is also within § 225.4(a)(9)(ii)(*a*) of the Insurance Regulation.

Applicant also requests permission, under No. (4) above, to sell insurance that is otherwise sold as a matter of convenience to the purchaser, so long as the premium income from sales within this category does not constitute a significant portion of the aggregate insurance premium income from insurance sold in connection with loans or other financial services. The sale of such insurance has been expressly permitted by the Board under § 225.4(a)(9)(ii)(*c*) of the Insurance Regulation. The Board does not regard this provision as being designed to

[4] Recommended Decisions Docket Numbers IA-3, 6, 7, 12, and 13 issued November 9, 1973, pp. 15-22; Docket Numbers IA-8, pp. 9-16 issued January 14, 1974.

[5] See Board Order of January 28, 1974, granting approval to Worcester Bancorp, Inc., Worcester, Massachusetts, to engage de novo in the sale of credit life, credit accident and health, and mortgage redemption insurance (1974 *F.R. Bull.* 393).

permit entry into the general insurance agency business, but only permits the limited sale of such insurance as a matter of convenience to the purchaser.

Finally, Applicant has applied to sell general insurance at offices located in communities with a population not exceeding 5,000. This request is clearly within § 225.4(a)(9)(iii)(*a*) of the Insurance Regulation. One of the communities affected under this request is the community of Hoover, Alabama. It is clear that the population of Hoover does not exceed 5,000. The fact that Hoover is situated within the Birmingham Standard Metropolitan Statistical Area ("SMSA") does not prevent this community from qualifying under the provisions of § 225.4(a)(9)(iii)(*a*) of the Insurance Regulation. The provisions of 12 U.S.C.A. 92, pertaining to the powers of a national banking association to engage in the insurance business in a community the population of which does not exceed 5,000 inhabitants, contain no such limitation. Accordingly, the Board concludes that the sale of general insurance in communities with a population not exceeding 5,000, including the community of Hoover, is a permissible activity within the Insurance Regulation.

In determining whether a particular activity is a proper incident to banking or managing or controlling banks, the 1970 Amendments to the Act require the Board to "consider whether its performance by an affiliate of a holding company 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". Each of these factors has been separately considered by the Board in its determination herein.

In the Board's view, it is reasonable to anticipate that approval of the subject application will result in a benefit to the public in terms of greater convenience to the borrower. The ability of a borrower to complete an entire credit-insurance transaction at one location is likely to result in a considerable savings in time as well as eliminate the duplication of certain informational requirements. Moreover, it appears from the record that borrowers have often requested insurance from Applicant's banks in the past, and there is a present demand for this added convenience. Although Applicant will initially have but one licensed agent at the head office of its lead bank, there would appear to be some convenience, although to a lesser degree, for borrowers at Applicant's other banking locations. Applicant intends to have its loan officer contact the licensed agent to permit the latter to obtain the necessary information to complete the insurance transaction. The Board therefore concludes that approval of the instant application would bring greater conveniences to the public, and that this factor supports approval of the application.

Approval of the subject application is also likely to result in some gains in efficiency. Most of the policies sold must, by Board Regulation, be directly related to an extension of credit or the provision of other financial services offered by Applicant. Thus, some savings can be anticipated through the reduction or even elimination of advertising and solicitation expenses as the agent's customers will normally be referred to him by loan officers. Efficiencies are also likely to result through Applicant's ability to combine its insurance and loan billing operations. It is the Board's judgment that such efficiencies will result in positive public benefits in terms of the service Applicant will be able to offer its borrower-insureds.

It is reasonable to anticipate some increased competition among insurance agents in Alabama. While it does not appear that Applicant can introduce more than a minimum amount of price competition in those insurance agency markets that Applicant enters, it would appear capable of injecting strong competition in such markets on the basis of service. The added convenience of completing a credit-insurance transaction at one location, discussed supra, is one of the competitive means whereby Applicant may improve its service to the public. The ready availability of the financial expertise which Applicant brings to its borrower-insured will offer a new dimension to the competitive scene. In addition, certain technical efficiencies in the data processing area give Applicant the capability of competing effectively with independent agents. Based on these and other facts of record, it is the Board's judgment that approval of the subject application will produce public benefits through increased competition among insurance agents in local Alabama markets.

One of the possible adverse effects which Congress directed the Board to consider in determining whether a particular activity is a proper incident to banking or managing or controlling banks is the danger of an undue concentration of resources. As noted in the Conference Report accompanying H.R. 6778, this particular danger "is enhanced when concentrations of power are centered about money, credit and other financial areas, the common denominators of the economy." The share of commercial bank deposits Applicant's banking subsidiaries hold in local Alabama markets does not establish an undue concentration of resources in those markets. It appears from the record in this proceeding that there are numerous banking alternatives in Alabama's banking markets. Moreover, additional competition in individual markets has resulted from the expansion of the State's bank holding companies. Thus, the Board concludes that the danger of an undue concentration of resources which the Congress feared might arise from bank holding company entry into a particular nonbanking activity is not present in this proceeding. Accordingly, Applicant's de novo entry into the sale of those insurance coverages the Board has found to be closely related to banking will not disturb the present competitive relationships in Alabama's local banking markets.

Another possible adverse effect which the Congress directed the Board to consider in any section 4(c)(8) application concerned the danger of decreased or unfair competition. Since the Law Judge found in his Recommended Decision that Applicant's sale of the above-described insurance coverages would encourage a practice of "voluntary tying," he concluded that Applicant would possess an unfair competitive advantage. Accordingly, the Law Judge recommended that Applicant not be permitted to sell insurance in markets where its banking subsidiaries hold more than 15 per cent of the total deposits in commercial banks. However, the evidence of record contains no specific instances of a tying arrangement resulting from either coercion or through a form of market power that could lead to "voluntary tying." On the other hand, there was testimony by Applicant's witness that insurance was not discussed until after a loan had been closed with the possible exception of commercial loans. This would lessen any presumed pressure on borrowers to tie their purchase of insurance to their borrowing of funds. Also, penetration figures for a bank-related insurance agency in North Carolina indicate that a very low percentage of sales of insurance relative to total loans was obtained by that agency. The Board notes that the concentration of deposits in commercial banks in Alabama is not significantly different from that in North Carolina and that it is therefore reasonable to anticipate a comparatively low penetration of insurance sales relative to total loans for Applicant.[6]

Additionally, lenders other than commercial banks operate in most of the local markets in Alabama in which Applicant wishes to sell insurance. For example, borrowers can obtain automobile loans from sales finance companies, personal loans from consumer finance companies and credit unions, and mortgage loans from savings and loan associations and mortgage bankers. Considering these nonbank sources of credit together with the several banking alternatives available in local markets in Alabama, the Board concludes that Applicant's entrance into the insurance business will not create a possible danger of voluntary tying by borrowers of their insurance needs to their loans.

[6] There is not a one-to-one relationship between an amount of penetration and an amount of voluntary tying in a particular context. Rather, a given penetration figure determines the maximum amount of voluntary tying that can possibly exist. If the penetration figure is low, as is the evidence presented from North Carolina, then the voluntary tying figure will be low. The converse is not true; a high penetration figure does not by itself indicate a high amount of voluntary tying.

It is clear from this evidence of record that Applicant does not possess that degree of market power sufficient to create the danger of voluntary tying or that such a practice could become a realistic threat. In view of the evidence of record concerning the fear of voluntary tying, discussed supra, the Board does not believe it should adopt an arbitrary standard which would foreclose Applicant from selling insurance in areas where its banking subsidiaries possess more than 15 percent of deposits in commercial banks. Such a standard would prevent Applicant's sale of insurance in many markets thereby negating the convenience and benefits the Board has found exist. The public would not be served well in that case. Accordingly, it is the Board's judgment that approval of the subject application will not result in decreased or unfair competition.

The Law Judge recommended in his decision that "appropriate statements be included in all insurance application forms furnished by affiliates of the Applicant, in bold type above the borrower's signature, to the effect that the customer understands the placement of such insurance is not offered as a condition to the grant of credit, nor is an inducement therefor * * *" The Board finds that the evidence in this record is not sufficient to require such language.

The Law Judge also recommended as a condition of approval that language be added to insurance application forms indicating that "similar insurance, not necessarily naming the lending institution as beneficiary, may be obtained from independent agents or in lieu thereof, that existing insurance owned by the debtor may be assigned to the bank" (page 20). The Board has not required this specific condition before and the evidence in this record is insufficient to demonstrate a public need for such a requirement.

In considering the possible adverse effect of conflicts of interests that may arise through Applicant's entry into the proposed insurance agency activities, the Law Judge found that a conflict existed in the "business of surety bonding." A prerequisite that the bond purchaser secure a line of credit from a lender in order to establish his economic solvency in the eyes of the underwriter would tempt the banking affiliate, so the Law Judge found, "to extend the necessary letter of credit even though sound banking practice would not so dictate." The Board does not find any credible evidence of record to support this conclusion. Nor does the record support a conclusion that lending affiliates of the Applicant would risk making an undesirable loan for the purpose of selling the customer any other form of insurance. Regulatory supervision of loans made by banking affiliates of Applicant appears to provide a reasonable safeguard against this possibility. Accordingly, the Board finds that the adverse effects that might arise from possible conflicts of interest are not present in this application. In addition, a review of the entire record indicates that no other unsound banking practices would result from Applicant's entry into the sale of the specified insurance coverages. Therefore, it is the Board's judgment that consummation of the proposed transaction would not result in unsound banking practices.

The Board notes that NAIA has objected to the exclusion by the Law Judge of certain testimony of Mr. Harrison Houghton, a witness for NAIA. The Board, after examining the record, concludes that the Law Judge correctly exercised his discretion in refusing to admit this testimony since it was cumulative to other testimony in the record and, moreover, irrelevant to many of the issues involved in this application.

NAIA filed a motion to exclude Board personnel who were involved in this hearing from participating "in the making of the Board's decision" on this application. Since such personnel of the Board did not participate in the decisional process, the issue raised by the motion is moot.

Based on 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, subject to the conditions noted above. This determination is further 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 the 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 herein approved shall be made not later than three months after the effective date of this Order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[7] effective July 3, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-15831 Filed 7-10-74;8:45 am]

NATIONAL CITY CORP.

Proposed Acquisition of National City Life Insurance Company

National City Corporation, Cleveland, Ohio, 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 National City Life Insurance Company, Phoenix, Arizona, a de novo company. Notice of the application was published on (1) May 24, 1974 in The Plain Dealer, a newspaper circulated in Cleveland, Ohio, and (2) May 28, 1974, in Arizona Weekly Gazette, a newspaper circulated in Phoenix, Arizona.

Applicant states that the proposed subsidiary would engage in the activity of acting as underwriter for credit life and credit accident and health insurance which is directly related to extensions of credit by the bank holding company system. 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 Cleveland.

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 August 5, 1974.

Board of Governors of the Federal Reserve System, July 5, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-15832 Filed 7-10-74;8:45 am]

NATIONAL BANCSHARES CORP.

Formation of Bank Holding Company

National Bancshares Corp., Pine Bluff, Arkansas, 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 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to National Bank of Commerce of Pine Bluff, Pine Bluff, Arkansas. 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 Reserve Bank, to be received not later than July 24, 1974.

[7] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, Bucher, Holland and Wallich. Absent and not voting: Chairman Burns.

Board of Governors of the Federal Reserve System, July 3, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-15833 Filed 7-10-74;8:45 am]

FIRST UNITED BANCORPORATION, INC.

Acquisition of Bank

First United Bancorporation, Inc., Fort Worth, Texas, 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 100 percent of the voting shares (less directors' qualifying shares) of Citizens National Bank of Temple, Temple, Texas, a proposed new bank. 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 24, 1974.

Board of Governors of the Federal Reserve System, July 3, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-15834 Filed 7-10-74;8:45 am]

NATIONAL DETROIT CORP.

Acquisition of Bank

National Detroit Corporation, Detroit, Michigan, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the National Bank of Dearborn, Dearborn, Michigan ("Bank"), a proposed new 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 the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest banking organization in Michigan, controls one subsidiary bank with aggregate deposits of $4.6 billion, representing 17.5 percent of the total deposits in commercial banks in the State.[1] Since Bank is a proposed new bank, its acquisition by Applicant would neither eliminate any existing competition nor immediately increase Applicant's share of commercial bank deposits in Michigan or the relevant market.

Bank will be located in the developing area of the Fairlane section of Dearborn, Michigan, and will be competing in the Detroit metropolitan banking market.[2] Applicant's sole subsidiary bank (National Bank of Detroit) is the largest of 50 banks in this market, holding about 31 percent of market deposits. The second and third largest banking organizations in the market each control approximately 15 percent of such deposits. Since Bank is a proposed new bank, it appears that consummation of the proposal would not have substantially adverse effects on existing competition within the market, nor is there any evidence that Applicant's proposal is an attempt to preempt a site before there is a need for a bank. Therefore, the Board concludes that the competitive considerations are consistent with approval of the proposal.

The financial and managerial resources of Applicant and its subsidiaries are regarded as satisfactory and the future prospects of each appear favorable. Bank, as a proposed new bank, has no financial or operating history; however, its prospects as a subsidiary of Applicant appear favorable. Considerations relating to the banking factors are consistent with approval of the application. Although there is no evidence in the record that the major banking needs of the community to be served are not currently being met, the area to be served by Bank is developing and Bank would serve as an additional source of a full range of banking services and would have access to Applicant's financial resources and expertise. Considerations relating to convenience and needs of the community to be served lend some weight toward approval of the application. It is the Board's judgment that the proposed acquisition is 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 that date, and (c) National Bank of Dearborn, Dearborn, Michigan, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[3] effective July 3, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-15835 Filed 7-10-74;8:45 am]

[1] All banking data are as of December 31, 1973, and reflect holding company formations and acquisitions approved through May 31, 1974.

[2] The Detroit banking market is approximated by Wayne, Oakland and Macomb Counties.

[3] Voting for this action: Vice Chairman Mitchell, and Governors Brimmer, Sheehan, Bucher, Holland and Wallich. Absent and not voting: Chairman Burns.

VALLEY BANCORPORATION

Formation of Bank Holding Company

Valley Bancorporation, Rexburg, Idaho, 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 100 percent of the voting shares of the successor by merger to Valley Bank, Rexburg, Idaho. 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 San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 24, 1974.

Board of Governors of the Federal Reserve System, July 3, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-15836 Filed 7-10-74;8:45 am]

NATIONAL SCIENCE FOUNDATION

CONFERENCE ON RESEARCH FOR DEVELOPMENT OF GEOTHERMAL ENERGY RESOURCES

JUNE 25, 1974.

The Jet Propulsion Laboratory/California Institute of Technology and the National Science Foundation will conduct a three day Conference on Research for Development of Geothermal Energy Resources on September 23-25, 1974 in the Beckman Auditorium, California Institute of Technology, Pasadena, California.

The purpose of this conference is to acquaint potential user groups with the Federal and NSF Geothermal programs and the current research results and plans of these programs. Additionally, the conference is to provide a mechanism for reviewing major research needs and program requirements associated with geothermal resource exploitation, with the aim of strengthening and improving current and planned development programs. Topics to be covered will include programmatic information concerning how industry may participate in the Federal and NSF geothermal programs.

Interested individuals and organizations should write or contact Yukio Nakamura, Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, California 91103; tel: 213/354-6959.

YUKIO NAKAMURA,
NSF Conference, Chairman.

[FR Doc.74-15868 Filed 7-10-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

ADVISORY COMMITTEE ON THE IMPLEMENTATION OF A CENTRAL MARKET SYSTEM

Meeting

This is to give notice, pursuant to section 10(a) of the Federal Advisory

Committee Act, 5 U.S.C. App. I 10(a), that the Securities and Exchange Commission Advisory Committee on the Implementation of a Central Market System will conduct open meetings on July 25 and 26, 1974.

On July 25, 1974 presentations of possible approaches to a central market system communications network will be made by the National Association of Securities Dealers at 77 Water Street, New York, New York, beginning at 9:30 a.m. and by the Securities Industry Automation Corporation at 55 Water Street, New York, New York, beginning at 2 p.m.

The meeting on July 26, 1974 will be held at One Liberty Plaza, New York, N.Y., on the 47th floor, beginning at 8:30 a.m. The summarized agenda for this meeting is as follows:

Working groups composed of members of the Committee appointed at its last meeting to study major regulatory questions will report their initial findings to the whole committee. The questions and members assigned thereto are as follows:

1. Net capital requirements—Messrs. Myers and Rohatyn.
2. Requirements to ensure market continuity—Messrs. Axelson and Gardiner.
3. Requirements to ensure fair and orderly markets—Mr. McCulley.
4. Requirements for market makers acting as agents—Messrs. Heller and Lovelace.
5. Participants in the system—Messrs. Jefferies and Stone.

Further information may be obtained by writing:

Andrew P. Steffan,
Director, Office of Policy Planning,
U.S. Securities and Exchange Commission,
Washington, D.C. 20549.

Dated: July 11, 1974.

GEORGE A. FITZSIMMONS,
Advisory Committee Management Officer.

[FR Doc.74-15934 Filed 7-10-74;8:45 am]

[File No. 500-1]

AMERICAN VARIETY INTERNATIONAL, INC.

Notice of Suspension of Trading

JULY 3, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of American Variety International, 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.), July 3, 1974 through midnight (e.d.t.) July 12, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-15914 Filed 7-10-74;8:45 am]

[File No. 500-1]

BBI, INC.

Notice of Suspension of Trading

JULY 5, 1974.

The common stock of BBI, Inc., being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from July 8, 1974 through July 17, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-15917 Filed 7-10-74;8:45 am]

[812-3497 Rel. No. 8409]

BIO-MEDICUS, INC.

Notice of Filing of Application for Exemption

JULY 3, 1974.

Notice is hereby given that Bio-Medicus, Inc. ("Applicant"), 15307 Industrial Road, Minnetonka, Minnesota 55343, a company that is not registered under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 6(c) of the Act for an order, retroactive to February 6, 1974, declaring that Applicant is exempt from all provisions of the Act. All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized and incorporated under the laws of the State of Minnesota on March 4, 1970, for the general purpose of designing, developing, manufacturing and marketing medical equipment, products and devices. Pursuant to a registration statement under the Securities Act of 1933, effective on October 28, 1971, Applicant sold 330,000 shares of its common stock to the public at $5.00 per share. This offering was terminated in February, 1972.

Shortly after Applicant's public offering was completed, the corporate officers, in an effort to maximize the income from monies not immediately used or committed, began investigating ways in which the proceeds might be invested. Applicant's Board of Directors appointed a Finance Committee to investigate these possibilities. Initially, the bulk of the proceeds were placed in savings and loan accounts. In September, 1972, after consultation with brokers and banks, Applicant decided to invest in corporate bonds. Sometime later, Applicant decided to diversify its portfolio by purchasing common stocks and writing put and call options against securities held in its portfolio. Applicant adopted a policy of limiting these common stock and option investments to approximately 25% of its assets.

Applicant states that it sought securities whose price per share had either grown or remained stable during the past several years and which were felt to be selling below their maximum level. Applicant's brokerage house collected additional data on securities under consideration and a margin account was opened in an effort to increase Applicant's potential return. Applicant asserts that, although its officers devoted only a small percentage of their total working hours to the formation of an investment portfolio, they were diligent and developed a well thought-out plan. Because Applicant is involved in a business with a high degree of uncertainty, Applicant believed that it was wise not to commit all its resources to any one project and to maximize, through investments in securities, the return on the proceeds raised in the public offering. For some time in the foreseeable future, Applicant believes that it may have a substantial portion of its assets invested in securities as described below.

On August 17, 1973, the Commission filed a complaint in the United States District Court for the District of Minnesota against Applicant and its principal officers seeking a preliminary and permanent injunction from further violations of section 7(a) of the Act, section 17(a) of the Securities Act of 1933, section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and also seeking the appointment of a receiver for Applicant. Section 7(a) of the Act enumerates certain activities which cannot be engaged in by investment companies not registered under the Act.

On February 6, 1974, the Commission and Applicant, its principal officers and certain intervening defendants entered into a final consent judgment of permanent injunction and stipulation thereto. The consent decree contained all of the relief prayed for in the Commission's complaint with the exception of the appointment of a receiver for Applicant. Among other things, Applicant is enjoined from maintaining a margin account, dealing in options, and dealing in common stocks and corporate bonds other than those issued by Applicant. The consent decree requires Applicant to liquidate, within 120 days, its current portfolio and to invest the proceeds in an orderly fashion in United States Government treasury bills, United States Government securities, short-term bank certificates of deposit, time deposits, and savings and loan accounts.

Such reinvested proceeds are to be deposited immediately in a bank custodial account for safekeeping purposes. After each deposit in or withdrawal from such account, a notation shall be completed which indicates what assets were deposited or withdrawn, by whom, and if a withdrawal, for what purpose, and such notation shall be sent to an independent director of Applicant who does not have access to the account. At the end of every quarter, Applicant will file with the Commission's Chicago Regional Office a balance sheet, statement of receipts and disbursements and an itemized listing of all securities, investments and cash items.

Each of Bio's principal officers has agreed, with respect to Bio or any company controlled by Bio, not to sell knowingly any securities or property to it, buy knowingly any securities or property from it (except securities of which the seller is the issuer), or borrow any money or property from it either directly or indirectly, while acting as a principal. Each of such officers has also agreed not to accept from any source any compensation for the purchase or sale of any property to or for Bio or any company controlled by Bio, either directly or indirectly while acting as an agent and not to effect any transactions as a joint and several participant with Bio or any company controlled by Bio, either directly or indirectly, while acting as a principal. However, these prohibitions are not meant to interfere with or impair certain pre-existing contracts between Bio and its principal officers.

Applicant asserts that it is primarily engaged in the business of designing, developing, manufacturing, and marketing medical instruments, products and devices; that the nature of Applicant's business is such that it is not prudent or feasible for Applicant to commit its total liquid and other assets for immediate research and development; and that investments in securities, permitted by the consent decree, which Applicant will make in the future will be made solely to aid Applicant's medical products business. In view of the restraints imposed on Applicant's investment activities by the February 6, 1974, consent decree, Applicant asserts that the exemption of Applicant from all provisions of the Act, retroactive to February 6, 1974, is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person or transaction from any provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given, that any interested person may, not later than July 29, 1974 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted; or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered), and any postponements thereof.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74–15907 Filed 7–10–74;8:45 am]

[File No. 500–1]

CANADIAN JAVELIN, LTD.

Notice of Suspension of Trading

JULY 5, 1974.

The common stock of Canadian Javelin, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Canadian Javelin, Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from July 7, 1974 through July 16, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74–15915 Filed 7–10–74;8:45 am]

[File No. 500–1]

CONTINENTAL VENDING MACHINE CORP.

Notice of Suspension of Trading

JULY 3, 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(e)(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 July 4, 1974 through July 13, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74–15911 Filed 7–10–74;8:45 am]

[File No. 500–1]

FRANKLIN NATIONAL BANK

Notice of Suspension of Trading

JULY 3, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the preferred stock and 4.75 percent debentures 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 July 4, 1974 through July 13, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74–15912 Filed 7–10–74;8:45 am]

[File No. 500–1]

FRANKLIN NEW YORK CORP.

Notice of Suspension of Trading

JULY 3, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common and preferred stock and 7.30 percent notes of Franklin New York Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from July 4, 1974 through July 13, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74–15913 Filed 7–10–74;8:45 am]

[File No. 500–1]

HERSHBERGER ENTERPRISES, INC.

Notice of Suspension of Trading

JULY 2, 1974.

It appearing to the Securities and Exchange Commission that the summary

suspension of trading in the common stock of Hershberger Enterprises, Inc. (Formerly: Hershberger Explorations, 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 1 p.m. (e.d.t.) on July 2, 1974 through midnight (e.d.t.) on July 11, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-15920 Filed 7-10-74;8:45 am]

[File No. S7-524; Release 34-10897]

NEW YORK STOCK EXCHANGE RULE

Extension of Time for Public Comment

On May 24, 1974, the Commission published for comment a proposed amendment to New York Stock Exchange Rule 440A.11, which was submitted to the Commission by the New York Stock Exchange pursuant to Securities Exchange Act Rule 17a-8 [17 CFR 240.17a-8]. That amendment would eliminate the language in Rule 440A.11 permitting the adjustment of fees for statistical or investment advisory services in accordance with commission business received and would substitute new language to prohibit any adjustment of a published fee (Securities Exchange Act Release No. 10824). The time for submitting such comments expires July 1, 1974.

In view of requests for additional time within which to submit comments on the proposed amendment, the Commission has determined to extend the time for submitting comments to July 15, 1974. All interested persons are invited to submit their comments in writing to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 on or before July 15, 1974. Such communications should refer to File No. S7-524 and will be available for public inspection.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

JULY 3, 1974.

[FR Doc.74-15906 Filed 7-10-74;8:45 am]

[70-5390 Rel. No. 18478]

OHIO EDISON COMPANY AND PENNSYLVANIA POWER COMPANY

Proposed Guarantee of First Mortgage Bonds and Short-Term Notes of Non-Affiliate Companies and Extension of Short-Term Borrowing Authorization

JULY 2, 1974.

Notice is hereby given that Ohio Edison Company ("Ohio Edison"), 47 North Main Street, Akron, Ohio 44308, an electric utility company and a registered holding company, and its electric utility subsidiary company, Pennsylvania Power Company ("Penn Power"), 1 East Washington Street, New Castle, Pennsylvania 16103, have filed a post-effective amendment to the application-declaration previously filed in this proceeding with this Commission designating sections 6, 7, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, as further amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transactions.

Ohio Edison and Penn Power along with Duquesne Light Company ("Duquesne"), the Cleveland Electric Illuminating Company ("CEI") and the Toledo Edison Company ("Toledo Edison"), all unaffiliated with Ohio Edison or Penn Power, have entered a joint development program for power generation and transmission known as the Central Area Power Coordination Group ("CAPCO"). On December 22, 1969, Ohio Edison, Penn Power and Duquesne, as buyers, entered into a 25-year coal supply agreement with the North American Coal Corporation, as seller, for supplying the coal requirements of a CAPCO generating unit and a supplementary agreement to develop a new mine also to supply the said unit. These agreements were assgined by the seller to its wholly-owned subsidiary, Quarto Mining Company ("Quarto"). An order has been issued authorizing Ohio Edison and Penn Power to acquire notes, together with Duquesne, to finance the new Quarto mine. (Holding Company Act Release No. 16905, November 16, 1970). On November 30, 1971, the CAPCO companies entered into an agreement directly with Quarto to provide for the coal requirements of other CAPCO company generating units and to provide for additions to the new mine and the development of other new mines.

The transactions that are the subject of this proceeding relate to the permanent financing arrangements pursuant to which Quarto will complete additions to or the development of two of the new mines. The financing includes a lease portion ("lease portion") and a debt portion ("financing portion"). Under the lease portion Quarto will lease equipment to extract, haul, crush, clean, prepare, convey, and deliver to a large loading point mine run coal.

The overall cost of the project was originally estimated at $140,000,000, $105,000,000 of which was to be supplied under the lease portion of the transaction and $35,000,000 of which was to be supplied under the financing portion of the transaction. It is now stated that the total cost is estimated to be $150,000,000, the $10,000,000 increase to be supplied by increasing the financing portion to $45,000,000. The increase in cost is attributed to a reduction in revenues derived from coal sales resulting chiefly from labor problems at the mine. An additional reason for the increase in the financing portion is said to be that interest rates charged with respect to Quarto's interim bank financing have been higher than originally anticipated.

By order dated October 30, 1973 (Holding Company Act Release No. 18144) issued in this proceeding, this Commission authorized Ohio Edison and Penn Power to issue certain guarantees in connection with Quarto's development of the above-mentioned mines designed to serve the CAPCO companies. The applicants-declarants have now requested the same authority with regard to the additional $10,000,000 amount proposed to be issued in connection with the financing portion of the transaction.

It is stated that pursuant to the financing portion of the transaction, Quarto has issued $20,500,000 principal amount of its bonds. It is now proposed that Quarto issue a new series of bonds under the financing portion ("Series B Bonds") in a total principal amount of $20,000,000 to mature January 1, 2000 and bearing an expected interest rate of 9.70 percent per annum. The Series B Bonds will be equally and ratably secured with the bonds previously issued with regard to the financing portion.

It is stated that indications of interest have been obtained from institutional investors with respect to the Series B Bonds. It is also stated that indications of interest have been obtained with respect to the issuance by a special purpose corporation of $10,000,000 in new notes ("Series B Notes") to finance the lease portion of the transaction.

Although commitments will be obtained now with respect to the Series B Notes and the Series B bonds, it is stated that the institutional investors who will have committed to purchase the same do not wish to take delivery thereof prior to January 1975 based on reasons related to the management of their own funds. Accordingly, the Series B Notes and Series B Bonds are not expected to be issued prior to January 1975. To provide for needed funds, additional bank lines of credit have been arranged through June 30, 1975. Borrowings under these lines will be by Quarto or by the Owner Trustee under the lease transaction and will be limited to nine months or less.

It is proposed that repayment of the borrowings under the bank lines of credit be severally guaranteed by the CAPCO companies. To make such guarantees, Ohio Edison and Penn Power request an extension of the authorization presently granted to them by the above-mentioned order of October 30, 1973, to make short-term borrowings and/or guarantees not in excess of 10 percent of their respective capitalizations through June 30, 1975.

The short-term borrowings to be made by Quarto and/or the Owner Trustee under the lease transaction, the repayment of which are proposed to be guaranteed by the CAPCO companies, will be primarily under lines of credit established with five banks as follows:

Bank	Amount of line	Interest rate [1]	Commitment fee
			Percent
Central National Bank of Cleveland	$3,000,000	115 percent of prime	1-2
Society National Bank of Cleveland	3,000,000	125 percent of prime	None
Cleveland Trust Co	10,000,000	117 percent of prime	None
The Chase Manhattan Bank, N.A	25,000,000	120 percent of prime	None
Mellon Bank, N.A	5,000,000	Prime plus 1¼ percent	None

[1] It is stated that no compensating balances are required in connection with these lines of credit.

It is stated that the Public Utilities Commission of Ohio has jurisdiction over the proposed transactions with respect to Ohio Edison, and the Pennsylvania Public Utility Commission has jurisdiction over the proposed transactions with respect to Penn Power. It is represented that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. The additional fees, commissions and expenses incurred or to be with respect to the post-effective amendment, excluding such costs to be incurred by the CAPCO companies other than Ohio Edison and Penn Power, and to be incurred by Quarto, are: (a) $3,500 fees, including legal fees for Ohio Edison and (b) $1,500 fees, including legal fees for Penn Power.

Notice is further given that any interested person may, not later than July 25, 1974, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration as further amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as further amended by said post-effective amendment, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued 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.74-15908 Filed 7-10-74;8:45 am]

[File No. 500-1]

PRAIRIE PETROLEUM, INC.

Notice of Suspension of Trading

JULY 3, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Prairie Petroleum, 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 12:45 p.m. (e.d.t.) July 3, 1974 through midnight (e.d.t.) July 12, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-15910 Filed 7-10-74;8:45 am]

[File No. 500-1]

ROYAL PROPERTIES INC.

Notice of Suspension of Trading

JULY 5, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Royal Properties Incorporated being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from July 7, 1974 through July 16, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-15916 Filed 7-10-74;8:45 am]

SEC REPORT COORDINATING GROUP (ADVISORY)

Notice of Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Commitee Act, Public Law 92-463, 86 Stat. 770, the Securities and Exchange Commission announces the following public advisory committee meeting.

The Commission's Report Coordinating Group (Advisory), first anounced on January 24, 1974 (Securities Exchange Act Release No. 10612), will hold its next meeting on July 29-30, 1974, at the Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. The meeting will commence at 10 a.m. local time each day.

The Report Coordinating Group was formed to assist the Commission in developing a coherent, industry-wide, coordinated reporting system. In carrying out this objective, the Report Coordinating Group is to review all reports, forms, and similar materials required of broker-dealers by the Commission, the self-regulatory community and others. The Group is expected to advise the Commission on such matters as eliminating unnecessary duplication in reporting, reducing reporting requirements where feasible, and developing a uniform key regulatory report.

The Group's scheduled meeting will be for the purpose of discussing the Commission's preliminary outline of a Key Regulatory Report and a timetable for accomplishing the committee's goals.

The Group's meetings are open to the public. Any interested person may attend and appear before or file statements with the advisory committee. Said statements, if in written form, may be filed before or after the meeting. Oral statements shall be made at the time and in the manner permitted by the Report Coordinating Group. Information on the procedures for making statements may be obtained by contacting: SEC Report Coordinating Group, Mr. Daniel J. Piliero II, Secretary, Room 332, 500 North Capitol Street, Washington, D.C. 20549.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

JULY 3, 1974.

[FR Doc.74-15909 Filed 7-10-74;8:45 am]

SEC REPORT COORDINATING GROUP (ADVISORY)

Notice of Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-463, 86 Stat. 770, the Securities and Exchange Commission announces the following public advisory committee meeting.

The Commission's Report Coordinating Group (Advisory), first announced on January 24, 1974 (Securities Exchange Act Release No. 10612), will hold its next meeting on July 25, 1974, at Suite 2000, 1010 Second Avenue, San Diego, California. The meeting will commence at 10 a.m. local time.

The Report Coordinating Group was formed to assist the Commission in developing a coherent, industry-wide, coordinated reporting system. In carrying out this objective, the Report Coordinating Group is to review all reports, forms, and similar materials required of broker-dealers by the Commission, the self-regulatory community and others. The Group is expected to advise the Commis-

sion on such matters as eliminating unnecessary duplication in reporting, reducing reporting requirements where feasible, and developing a uniform key regulatory report.

The Group's scheduled meeting will be for the purpose of discussing the initial steps to be taken in eliminating unnecessary or duplicative trading forms.

The Group's meetings are open to the public. Any interested person may attend and appear before or file statements with the advisory committee. Said statements, if in written form, may be filed before or after the meeting. Oral statements shall be made at the time and in the manner permitted by the Report Coordinating Group. Information on the procedures for making statements may be obtained by contacting: SEC Report Coordinating Group, Mr. Daniel J. Piliero II, Secretary, Room 332, 500 North Capitol Street, Washington, D.C. 20549.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

JULY 8, 1974.

[FR Doc.74-15935 Filed 7-10-74;8:45 am]

[File No. 500-1]

STRATTON GROUP, LTD.

Notice of Suspension of Trading

JULY 3, 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 July 4, 1974 through July 13, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-15919 Filed 7-10-74;8:45 am]

[File No. 500-1]

WINNER INDUSTRIES, INC.

Notice of Suspension of Trading

JULY 5, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Winner Industries, 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 July 7, 1974 through July 16, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-15918 Filed 7-10-74;8:45 am]

[TEA-F-63]

TARIFF COMMISSION

JOHN SWENSON GRANITE, INC.

Notice of Investigation and Hearing

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962 on behalf of the John Swenson Granite Co., Inc., Concord, New Hampshire, the United States Tariff Commission, on July 5, 1974, instituted an investigation under section 301(c)(1) of the said Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with manufactured granite (of the types provided for in item 513.74 of the Tariff Schedules of the United States) produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

A public hearing in connection with this investigation will be held beginning at 10 a.m., e.d.t. on August 2, 1974, in the Hearing Room, U.S. Tariff Commission Building, 8th and E Streets NW., Washington, D.C. Requests for appearances at the hearing should be filed with the Secretary of the Commission, in writing, at his office in Washington, D.C., no later than noon, Friday, July 26, 1974.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, NW., Washington, D.C. 20436, and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

Issued: July 8, 1974.

[SEAL] G. PATRICK HENRY,
Acting Secretary.

[FR Doc.74-15902 Filed 7-10-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 54]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

JULY 5, 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 not 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 on or before September 9, 1974, 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 July 11, 1974, except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

the proceeding has been assigned for oral hearing.

No. MC 25869 (Sub-No. 123), filed June 12, 1974. Applicant: NOLTE BROS. TRUCK LINE, INC., 6217 Gilmore Avenue, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant site and/or storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Tex., to points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Denver, Colo.

No. MC 35831 (Sub-No. 6), filed May 20, 1974. Applicant: E. A. HOLDER, INC., P.O. Box 6625, Fort Worth, Tex. 76115. Applicant's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete pipe and concrete products*, from the plantsites of Gifford-Hill-American, Inc., located in Texas, to points in Arkansas, Louisiana, New Mexico, and Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Fort Worth or Dallas, Tex.

No. MC 43421 (Sub-No. 50), filed May 20, 1974. Applicant: DOHRN TRANSFER COMPANY, a Corporation, 4016 Ninth Street, P.O. Box 1237, Rock Island, Ill. 61201. 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, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and facilities of Hiram Walker & Sons, Inc., at or near Delavan, Ill., as an off-route point in connection with carrier's regular route operations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC–51146 (Sub-No. 375) (Correction), filed April 22, 1974, published in the FEDERAL REGISTER issue of June 6, 1974, and republished as corrected this issue. Applicant: SCHNEIDER TRANSPORT, INC., 2661 S. Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refined copper and materials and supplies* used in the manufacture and distribution of refined copper, and *metal* of extraordinary value, between the facilities of the American Smelting and Refining Co., located on Texas Highway 136 near Amarillo, Tex., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to correct the commodity description as stated herein. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Dallas, Tex., or Chicago, Ill.

No. MC–42537 (Sub-No. 50), filed May 20, 1974. Applicant: CASSENS TRANSPORT COMPANY, a Corporation, P.O. Box 468, Edwardsville, Ill. 62025. Applicant's representative: Donald W. Smith, Suite 2465, 1 Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles and new trucks* in secondary movements in truckaway service *and new bodies, new chassis, and parts* thereof, between points in Wisconsin, on the one hand, and, on the other, points in Illinois and Missouri, restricted to traffic originating at Chrysler Corporation plants or imported by Chrysler Corporation.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC–51146 (Sub-No. 381), filed June 10, 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: *Foodstuffs*, from Buffalo, N.Y., to points in Ohio, Michigan, Indiana, Kentucky, Illinois, Iowa, Wisconsin, and Minnesota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC–52460 (Sub-No. 153), filed June 6, 1974. Applicant: ELLEX TRANSPORTATION, INC., 1420 West 35th St., P.O. Box 9637, Tulsa, Oklahoma 74107. Applicant's representative: Steve B. McCommas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aviation fuels*, in bulk, in tank vehicles, from Kansas City, Kans., to Almyra, Eudora, Harrisburg, Hickory Ridge and Lonoke, Ark.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Little Rock, Ark.; Kansas City, Mo., or Shreveport, La.

No. MC–80064 (Sub-No. 1), filed May 20, 1974. Applicant: B. F. KAUFFMAN MOTOR EXPRESS, INC., 1007 Harrisburg Pike, Lancaster, Pa. 17603. Applicant's representative: John Mongiovi, Esq., 129 East Orange Street, Lancaster, Pa. 17602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ceiling and floor tile, wall board, adhesives, linoleum, carpeting and floor coverings, and installation and maintenance sundries and accessories*, in sealed vans or containers, between points in Lancaster County, Pa., on the one hand, and, on the other, ports in the New York, N.Y. commercial zone.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Harrisburg, Reading, York, Lancaster, or Philadelphia, Pa.

No. MC–95540 (Sub-No. 905), filed June 3, 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: *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 storage facilities utilized by American Beef Packers, Inc., at or near Cactus, Tex. (Moore County), to points in Colorado, North Dakota, South Dakota, Nebraska, Kansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Indiana, Kentucky, Michigan 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–95540 (Sub-No. 906), filed June 10, 1974. Applicant: WATKINS MOTOR LINES, INC., 1940 Monroe Drive, P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* exempt from economic regulation under section 203(b)(6) of the Act, when transported in mixed loads with bananas, from Mobile, Ala., to points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic having a prior or subsequent movement by water.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 103051 (Sub-No. 310), filed May 3, 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: *Phosphoric acid*, in bulk, in tank vehicles, from points in Polk County, Fla., to points in Hillsborough County, Fla., restricted to shipments having a subsequent movement by water.

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 106398 (Sub-No. 706), filed June 17, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74101. Applicant's representaitve: Irvin Tull (same address as applicant). 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, mounted on wheeled undercarriages, from points in Garfield County, Colo., 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 Denver, Colo.

No. MC–106398 (Sub-No. 707), filed June 17, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same address as applicant). 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 Rhea County, Tenn., to points in Kentucky, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, Missouri, Illinois, Indiana, Ohio, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Knoxville, Tenn.

No. MC 106644 (Sub-No. 182), filed June 6, 1974. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road, P.O. Box 916, Atlanta, Ga. 30318. Applicant's representative: Hubert Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Commodities* which, because of size, weight or shape, require the use of special equipment or special handling, and (b) *attachments, parts, machinery, materials, and supplies* related to the commodities named in Part (1) (a) and moving in connection therewith, and (2) *commodities* which, because of size, weight, or shape, do not require the use of special equipment or special handling when transported as part of the same shipment with commodities which because of size, weight, or shape require the use of special equipment or special handling, from Rome, Ga., to points in California, Arizona, Oregon, and Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 106644 (Sub-No. 183), filed June 6, 1974. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., P.O. Box 916, Atlanta, Ga. 30318. Applicant's representative: Hubert Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Commodities* which, because of size, weight or shape, require the use of special equipment or special handling, and (b) *attachments, parts, machinery, materials, and supplies* related to the commodities named in Part (1) (a) and moving in connection therewith, and (2) *commodities* which, because of size, weight, or shape, do not require special handling when transported as part of the same shipment with commodities which because of size, weight or shape require the use of special equipment or special handling, from Rome, Ga., to points in Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC–106644 (Sub-No. 184), filed June 6, 1974. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., P.O. Box 916, Atlanta, Ga. 30318. Applicant's representative: Hubert Johnson, P.O. Box 916, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *commodities* which because of size, weight, or shape, require the use of special equipment, or special handling; and (b) *attachments, parts, machinery, materials, and supplies* related to the commodities named in part (1) (a) and moving in connection therewith; (2) *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts and supplies* moving in connection therewith; (3) *commodities* which because of size, weight, or shape, do not require the use of special equipment or special handling when transported as part of the same shipment with either (a) *commodities* which because of size, weight, or shape require the use of special equipment or special handling, or (b) *self-propelled articles* each weighing 15,000 pounds or more, between points in Connecticut, Delaware, and the District of Columbia, on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Atlanta, Ga.

No. MC 106644 (Sub-No. 185), filed June 6, 1974. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., P.O. Box 916, Atlanta, Ga. 30318. Applicant's representative: Hubert Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *commodities*, which because of size, weight, or shape, require the use of special equipment, or special handling; and (b) *attachments, parts, machinery, materials, and supplies* related to the commodities named in Part (1) (a) and moving in connection therewith, and (2) *commodities*, which because of size, weight, or shape, do not require special handling when transported as part of the same shipment with commodities which because of size, weight or shape require the use of special equipment or special handling, from Ladson, S.C., to points in the United States (except Alaska and Hawaii), restricted to traffic originating at the plant site of General Electric Company in Ladson, S.C.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC–107107 (Sub-No. 436), filed June 10, 1974. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 Northwest 42d Avenue (LeJeune Road), P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, and agricultural commodities* exempt from economic regulation under section 203(b)(6) of the Act, when transported in mixed loads with bananas, from Mobile, Ala., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia, restricted to the transportation of traffic having an immediate prior move by water.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Mobile, Ala.

No. MC–110525 (Sub-No. 1100), filed June 10, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mixed styrene monomer*, in bulk, in tank vehicles, from the plantsite of American Aniline Corp., at Calvert City, Ky., to the plantsite of O'Brien Corp., at South Bend, Ind.; and (2) *vegetable oils*, in bulk, in tank vehicles, from Macon, Ga., to points in Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio.

No. MC–112822 (Sub-No. 332), filed May 24, 1974. Applicant: BRAY LINES, INC., 1401 North 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 Clearfield Cheese

Company, located at or near Clinton, Mo., to points in Arizona, California, Colorado, and New Mexico.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo., or St. Louis, Mo.

No. MC–112822 (Sub-No. 333), filed June 10, 1974. Applicant: BRAY LINES, INCORPORATED, 1401 North 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: *Frozen potatoes and potato products*, from points in Portage County, Wis., to points in Illinois, Indiana, Iowa, Kansas, Missouri, Minnesota, Oklahoma, Ohio, Pennsylvania, and Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

No. MC–112822 (Sub-No. 334), filed June 10, 1974. Applicant: BRAY LINES, INCORPORATED, 1401 North 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: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Tex., to points in Arizona, Arkansas, California, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, Ohio, South Dakota, Texas, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held on a consolidated record with other carriers supported by Iowa Beef Processors for similar authority, but does not specify a location.

No. MC 112822 (Sub-No. 335), filed June 10, 1974. Applicant: BRAY LINES, INCORPORATED, 1401 North 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 of Paramount Foods, Inc., at or near Louisville, Ky., to points in Oklahoma, Kansas, Texas, Missouri, Louisiana, and Arkansas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or St. Louis, Mo.

No. MC 113041 (Sub-No. 12), filed June —, 1974. Applicant: AC-BERWICK TRANSPORTERS, INC., Mutton Hollow Road, Woodbridge, N.J. 07095. Applicant's representative: William D. Traub, 10 East 40th Street, New York, N.Y. 10016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Distillates and residual fuel oils*, in bulk, in tank vehicles, from Port Reading, Sewaren, and Perth Amboy, N.J., to points in Pennsylvania.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC–114004 (Sub-No. 145), filed May 24, 1974. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Watercraft*, from Richland, Mo., to points in Iowa, Arkansas, Texas, Tennessee, Mississippi, Alabama, Illinois, and Kentucky.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC–114004 (Sub-No. 146), filed May 24, 1974. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Harold G. Hernly, Jr., 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, transported on wheeled undercarriages, from Ruston, La., to points in the United States (including Alaska but excluding Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Shreveport, La., or Little Rock, Ark.

No. MC–114045 (Sub-No. 399), filed May 20, 1974. Applicant: TRANS COLD EXPRESS, INC., P.O. Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in containers, in vehicles equipped with mechanical refrigeration, from the plantsite of The Upjohn Company, at Houston, Tex., to points in Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Idaho, Kansas, Louisiana, Maine, Maryland, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Houston, or Dallas, Tex.

No. MC–114273 (Sub-No. 176) (Correction), filed April 8, 1974, published in the FEDERAL REGISTER issue of May 16, 1974, and republished as corrected this issue. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce 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: *Meats, meat products and meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk in tank vehicles), from the plantsites and warehouses of Sterling Colorado Beef Packers, at or near Sterling Colo., to points in Illinois, Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, West Virginia, Virginia, and the District of Columbia, restricted to the transportation of shipments originating at the plantsites and warehouses of Sterling Colorado Beef Packers, at or near Sterling, Colo.

NOTE.—The purpose of this republication is to include the destination state of Ohio, which was inadvertently omitted from the first publication. 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. 208), filed May 31, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce Exchange Building, 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, Iowa 52306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Junk cars and metal for recycling purposes, and crushed vehicles*, from points in Wyoming, Nebraska, Colorado, and Kansas, to points in Illinois and Minnesota; and (2) from points in Colorado and Nebraska, to Kansas City, Mo.

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. 209), filed June 7, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce 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: *Junk cars and metal* for recycling and *crushed vehicles*, from points in Kansas and Missouri, to Chicago and South Beloit, Ill.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115840 (Sub-No. 97), filed June 13, 1974. Applicant: COLONIAL FAST FREIGHT LINES, INC., 107 Vulcan Road, Suite 200, 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: *Salt and salt products, and materials and supplies* used in the agricultural, water and refuse treatment, food processing, wholesale groceries, and institutional supply industries (except commodities in bulk), from Avery Island, La., to points in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

NOTE.—Common control was approved in Docket No. MC–F–7304. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or New Orleans, La.

No. MC 115840 (Sub-No. 98), filed June 13, 1974. Applicant: COLONIAL FAST FREIGHT LINES, 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: *Hides, skins, chromes, and pieces* therefrom, from the plantsite and/or storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Tex., to points in Alabama, Arkansas, Delaware, Georgia, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia, restricted to traffic originating at and destined to the named points.

NOTE.—Common control was approved in Docket No. MC–F–7304. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 115840 (Sub-No. 99), filed June 13, 1974. Applicant: COLONIAL FAST FREIGHT LINES, INC., 107 Vulcan Road, Suite 200, 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: *Valves, hydrants, fittings, parts, and accessories* (except commodities in bulk), from the plantsite of Mueller Company located at or near Albertville, Ala., to points in that part of the United States lying on and east of a line formed by the western state boundary lines of Texas, Oklahoma, Kansas, Nebraska, South Dakota, and North Dakota, restricted to traffic originating at and destined to the named points.

NOTE.—Common control was approved in Docket No. MC–F–7304. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 117119 (Sub-No. 503), filed June 18, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). 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 located at or near Jackson, Tenn., on the one hand, and, on the other, points in Connecticut, Delaware, Georgia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and the District of Columbia, restricted to traffic originating at or destined to the plant and warehouse facilities of the Quaker Oats Company at or near Jackson, Tenn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Atlanta, Ga.

No. MC–117119 (Sub-No. 504), filed June 10, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. A. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum oils, hydraulic system fluids* (other than petroleum), and *chemicals*, in drums and pails, from New Orleans, La., to points in California, Oregon, and Washington.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Los Angeles, Calif.

No. MC–117119 (Sub-No. 505), filed June 18, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. A. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Iowa Beef Processors, Inc., located at or near Amarillo, Tex., 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 Amarillo, Tex., or Omaha, Nebr.

No. MC 117375 (Sub-No. 11), filed May 20, 1974. Applicant: BRANSON TRUCK LINE, INC., 1309 Highway 56 East, Lyons, Kans. 67554. Applicant's representative: Eugene W. Hiatt, 308 Casson Building, 603 Topeka Blvd., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery and parts*, from East Moline, Ill., to Hutchinson, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Wichita, Topeka, or Kansas City, Kans.

No. MC–117954 (Sub-No. 22), filed May 24, 1974. Applicant: H. L. HERRIN, Jr., P.O. Box 1106, Metairie, La. 70004. Applicant's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* exempt from economic regulations under section 203(b)(6) of the Act, when transported in mixed loads with bananas, from Mobile, Ala., to points in, Alabama, Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, Ohio, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming, restricted to the transportation of traffic having a prior movement by water.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Mobile, Ala., or New Orleans, La.

No. MC–117686 (Sub-No. 149), filed May 24, 1974. Applicant: HIRSCHBACH MOTOR LINES, INC., 3324 U.S. Highway 75 North, Sioux City, Iowa 51102. Applicant's representative: George L. Hirschbach, 309 Badgerow Bldg., Sioux City, Iowa 51101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* exempt from economic regulation under section 209(b)(6) of the Act, when transported in mixed shipments with bananas, from Mobile, Ala., to points in Iowa, Kansas, Missouri, Nebraska, North Dakota, and South Dakota, restricted to the transportation of traffic having a prior movement by water.

NOTE.—If a hearing is deemed necessary, applicant does not specify a location.

No. MC–117940 (Sub-No. 136), filed June 17, 1974. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in containers other than in bulk, from the plant site of Pennzoil Company and divisions thereof at or near Rouseville, Reno, and Karns City, Pa., to points in Wisconsin.

NOTE.—Applicant holds contract carrier authority in MC–114789 and subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Pittsburgh, Pa.

No. MC 118130 (Sub-No. 69), filed May 24, 1974. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, Tex. 76115. Applicant's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* exempt from economic regulations under Section 203(b)(6) of the Act, when transported in mixed loads with bananas, from Mobile, Ala., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Min-

nesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming, restricted to the transportation of traffic having a prior movement by water.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Mobile, Ala.; Fort Worth or Dallas, Tex.

No. MC 118535 (Sub-No. 63), filed May 24, 1974. Applicant: TIONA TRUCK LINE, INC., 111 S. Prospect, Butler, Mo. 64730. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 Northwest 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer, dry fertilizer materials, and dry urea*, in containers and packages, from Atlas, Mo., to points in Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Minnesota, Nebraska, New Mexico, North Dakota, South Dakota, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 118882 (Sub-No. 1), filed May 20, 1974. Applicant JOE LAMBERT TRUCKING SERVICE, 715 Fox Avenue, Harrisville, W. Va. 26362. Applicant's representative: Joe L. Lambert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk commodities*, by dump truck, between points in that part of Ohio and West Virginia in a territory described as follows: Beginning at Bellaire, Ohio, and extending west along Interstate Highway 70 to intersection with Interstate Highway 77, thence north on Interstate Highway 77 to intersection with Ohio State Route 36, thence west of Ohio State Route 36 to intersection with Ohio State Route 16, thence south on Ohio State Route 16 to intersection with Ohio State Route 60, thence south on Ohio State Route 60, to intersection with Interstate Highway 70, thence west on Interstate Highway 70 to intersection with U.S. Highway No. 23, thence south of U.S. Highway No. 23 to Portsmouth, Ohio, thence east on U.S. Highway No. 52 to intersection with Interstate Highway 64, thence east of Interstate Highway 64 to intersection with Interstate Highway 79, thence north on Interstate Highway 79 to intersection with West Virginia State Route 7, thence west on West Virginia State Route 7 to the West Virginia-Ohio State Boundary Line at New Martinsville, W. Va., thence north on Ohio State Route 7 to the point of beginning, including points on the named highways.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Parkersburg, Charleston, or Clarksburg, W. Va., or Marietta, Ohio.

No. MC-119789 (Sub-No. 205), filed May 16, 1974. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, washing, and scouring compounds, and steel and plastic scourers*, from London (Madison County), Ohio, to Dallas, Tex.; New Orleans, La.; Birmingham, Ala.; Atlanta and Tucker, Ga.; Kansas City and St. Louis, Mo.; and Jacksonville, Tampa, Miami, and Opa Locka, Fla.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Dallas, Tex.

No. MC 119789 (Sub-No. 207), filed June 3, 1974. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery-chocolate coating*, from Chicago, Ill., and Frankfort, Ind., to points in California and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Waterbury, Conn., or Dallas, Tex.

No. MC 119789 (Sub-No. 209), filed June 3, 1974. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 1688, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, 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), from the plantsite and/or storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Tex., to points in Alabama, Arizona, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Amarillo, Tex., or Omaha, Nebr.

No. MC-119815 (Sub-No. 15), filed May 23, 1974. Applicant: INTERSTATE HIGHWAY EXPRESS, INC., 814 Norton Avenue, Bedford, Ind. 47421. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal pipe, metal sheets, and fittings, and supplies* for installation thereof, from the plant site of Hall Signs, Inc., at or near Bloomington, Ind., to points in Alabama, Arizona, California, Connecticut, Delaware, Florida, Maine, Massachusetts, Minnesota, Nevada, New Hampshire, New Mexico, Oklahoma, Rhode Island, South Dakota, Utah, and Vermont, (2) *materials and supplies* used in the manufacture of the commodities set forth in Part 1 above, on return, under a continuing contract or contracts with Hall Signs, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Indianapolis, Ind.

No. MC 123048 (Sub-No. 310), filed May 28, 1974. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, Wis. 53406. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Construction, mining, excavating machinery and equipment;* (2) *self-propelled vehicles* (when transported on trailers); (3) *attachments and accessories* for (1) and (2) above; (4) *parts* for (1), (2), and (3) above; and (5) *materials, equipment, and supplies* used in the manufacture distribution of commodities in (1), (2), (3), and (4) above, between points in Bannock County, Idaho, on the one hand, and, on the other, points in California, Illinois, Indiana, Iowa, Kentucky, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Tennessee, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho, Chicago, Ill., or Washington, D.C.

No. MC 123090 (Sub-No. 2), filed May 20, 1974. Applicant: FRANK MARCELLO AND PAUL R. MARCELLO, doing business as MARCELLO'S SERVICE, 431 Portzer Road, Quakertown, Pa. 18951. 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: *Men's dress shirts*, in individual boxes, from the plantsite of Abbeville Shirtmakers, Inc., located at or near Abbeville, S.C., to Emmaus (Lehigh County), Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Allentown, Pa., or Philadelphia, Pa.

No. MC 123392 (Sub-No. 61), filed April 22, 1974. Applicant: JACK B. KELLEY, INC., U.S. Highway 66W at Kelley Drive, Box 400, Route 1, Amarillo, Tex. 79106. Applicant's representative: Austin L. Hatchell, 1102 Perry Brooks Bldg., Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cryogenic liquids* (except liquefied natural gas), in bulk, in specialized equipment, (1) between points in Michigan; and (2) between points in Michigan, on the one hand, and, on the other, points in Indiana and Ohio.

NOTE.—Applicant intends to tack with Sub-No. 31, with 2 above, at points in Indiana and Ohio, to provide service between points in Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Illinois, Kansas, Kentucky,

Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, West Virginia, Virginia, Pennsylvania, New York, New Jersey, Maryland, and Delaware, on the one hand, and, on the other, points in Michigan. If a hearing is deemend necessary, the applicant requests it be held at Washington, D.C.

No. MC 123407 (Sub-No. 176), filed June 11, 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: *Roofing and roofing materials, and materials and supplies* used in the manufacturing or distribution (except commodities in bulk), from Waltham, Mass., Kearney, N.J., Jessup, Md., Morehead City, N.C., Jacksonville and Fort Lauderdale, Fla., Atlanta, Ga., Memphis, Tenn., Summit, Ill., North Kansas City, Mo., Houston, Tex., Oklahoma City, Okla., Minneapolis, Minn., Portland, Oreg., Salt Lake City, Utah, Denver, Colo., Detroit, Mich., Hazelwood, Mo., Brookville, Ind., Irving and Lubbock, Tex., San Leandro and Compton, Calif., and Woods Cross, Utah, 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., or Washington, D.C.

No. MC 123407 (Sub-No. 177), filed June 11, 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: *Pallets, skids, bases, boxes, crates, crating, veneer, baskets, treads, risers, sills, molding, cardboard cartons, nails, flooring, lumber, treated poles, treated piling, treated lumber, treated crossarms, and treated crossties*, from points in Louisiana, 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 New Orleans, La., or Washington, D.C.

No. MC 123407 (Sub-No. 178), filed June 11, 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) *Agricultural implements, and machinery and farm trailers;* (2) *attachments* for (1) above; and *parts* for (1) and (2) above, from Hamilton County, Nebr., 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 Omaha, Nebr., or Washington, D.C.

No. MC 123407 (Sub-No. 179), filed June 11, 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) *Agricultural implements and machinery;* (2) *attachments* for (1) and (3) *parts* for (1) and (2) above, from the plantsite of Automatic Equipment Manufacturing, Soil Mover Manufacturing Division, in Platte County, Nebr., to points in Montana, South Dakota, North Dakota, Wyoming, Colorado, and Minnesota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Washington, D.C.

No. MC–124236 (Sub-No. 73), filed May 24, 1974. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 1200 Simons Building, Dallas, Tex. 75201. Applicant's representative: Leroy Hallman, 4555 First National Bank Bldg., Dallas, Tex. 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid silicate of soda*, in bulk, in tank vehicles, from Dallas, Tex., to Albuquerque, Lovington, and Molybdenum, N. Mex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 125035 (Sub-No. 38), filed May 20, 1974. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, Ohio 44646. Applicant's representative: David L. Pemberton, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs*, not frozen (except in bulk, in tank vehicles), from the plantsites and facilities of Kraftco Corporation and its division, Kraft Foods, located at or near Champaign, Ill., to points in Indiana, Kentucky, Maryland, Michigan, New York, Ohio, Pennsylvania, and West Virginia, under continuing contract or contracts with Kraftco Corporation and its Kraft Foods Division.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Columbus, Ohio.

No. MC–125271 (Sub-No. 4), filed May 28, 1974. Applicant: DONALD E. KRAKE, doing business as HAINES TRANSFER CO., P.O. Box 28, Haines, Alaska 99827. Applicant's representative: Joseph C. Lawton, P.O. Box 28, Haines, Alaska 99827. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities requiring special equipment*, between points in Alaska south and east of the International Boundary line between the United States and Canada north of Haines, Alaska.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Haines, Juneau, or Anchorage, Alaska.

No. MC 126600 (Sub-No. 12), filed May 20, 1974. Applicant: EHRSAM TRANSPORT, INC., 108 North Factory, Enterprise, Kans. 67441. Applicant's representative: Bob W. Storey, 310 Columbian Title Building, 820 Quincy, Topeka, Kans. 66612. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Elevator and power transmission equipments, materials handling and processing equipment, foundry castings, materials, and supplies* used in the manufacture of such commodities (except the commodities the transportation of which because of their size and weight require the use of special equipment and commodities in bulk rate), between Junction City, Kans., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with North Central Foundry, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Topeka or Kansas City, Kans.

No. MC 127274 (Sub-No. 44), filed May 20, 1974. Applicant: SHERWOOD TRUCKING, INC., 1517 Hoyt Avenue, Muncie, Ind. 47302. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, canning materials and supplies*, between Bailey, Hartford, S. Haven, Grant, and Holland, Mich., on the one hand, and, on the other, points in Arkansas, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC–127539 (Sub-No. 36), filed May 20, 1974. Applicant: PARKER REFRIGERATED SERVICE, INC., 3533 East 11th Street, Tacoma, Wash. 98421. Applicant's representative: George R. LaBissoniere, Suite 101, 130 Andover Park East, Seattle, Wash. 98188. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Potato products*, not frozen, when moving in vehicles equipped with mechanical refrigeration, from points in Morrow County, Oreg., to points in Arizona, California, Nevada, and Washington; (2) *frozen foods*, from points in Jefferson and Morrow Counties, Oreg., to points in Arizona, California, Nevada, and Washington; and (3) *Mexican foods* consisting of tortillas and taco shells and sauce and burrettos, not frozen, when moving in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of Toltec Foods at Richmond, Calif., to points in Oregon and Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 128007 (Sub-No. 64), filed May 20, 1974. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, Kans. 66762. Ap-

plicant'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: (1) *Dry feed ingredients*, from points in Webb County, Tex., to points in Kansas, Oklahoma, Arkansas, Missouri, New Mexico, Louisiana, Iowa, Nebraska, Colorado, North Dakota, South Dakota, and Minnesota; (2) *fish meal*, from Cameron, Holmwood, Abbeville, Morgan City, Empire, and Dulac, La.; Moss Point and Pascagoula, Miss., to points in Tex.; and (3) *soybean meal*, from Memphis, Tenn., Little Rock, Newport, Pine Bluff, Wilson, and Van Buren, Ark.; Clarksdale, Greenwood, Greenville, Jackson, Hollandale, Marks, and Vicksburg, Miss., to points in Louisiana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 128375 (Sub-No. 111), filed June 4, 1974. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed and animal feed ingredients* (except in bulk), between points in Saline County, Nebr., on the one hand, and, on the other, points in California, under a continuing contract with Liggett and Meyers, Incorporated, and its Allen Products Co. Division.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Allentown, Pa., or Lincoln, Nebr.

No. MC 128375 (Sub-No. 113), filed June 7, 1974. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle accessories, and related items, and materials and supplies* used in the production thereof, between St. Louis, Mo., on the one hand, and, on the other, points in the United States, under a continuing contract with Douglas & Lomason Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Detroit, Mich., or Lincoln, Nebr.

No. MC–129350 (Sub-No. 45) (Correction), filed April 29, 1974, published in FEDERAL REGISTER issue of June 13, 1974, and republished, in part, as corrected this issue. Applicant: CHARLES E. WOLFE, doing business as EVERGREEN EXPRESS, P.O. Box 212, Billings, Mont. 59103. Applicant's representative: J. F. Meglen, P.O. Box 1581, Billings, Mont. 59103.

NOTE.—The purpose of this partial republication is to indicate dual operations are not involved in this proceeding. The rest of the notice remains as previously published. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 129480 (Sub-No. 13), filed May 20, 1974. Applicant: TRI-LINE EXPRESSWAYS, LTD., P.O. Box 5245, Station A, Calgary, Alberta, Canada T2H OS6. Applicant's representative: Hugh Sweeney, P.O. Box 1321, Billings, Mont. 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap*, from points in North Dakota, South Dakota, Wyoming, and Montana, to ports of entry on the International Boundary line between the United States and Canada, located at points in Montana and North Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Billings, Mont.

No. MC–129994 (Sub-No. 5), filed May 28, 1974. Applicant: RAY BETHERS, 165 West Central Avenue, Salt Lake City, Utah 84107. Applicant's representative: Lon Rodney Kump, 200 Law Building, 333 East Fourth South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum wall board, gypsum products, and materials* used in the manufacture, installation, or distribution thereof, from Sigurd, Utah, to points in California.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Salt Lake City, Utah, or Portland, Oreg.

No. MC 133119 (Sub-No. 57), filed May 28, 1974. Applicant: HEYL TRUCK LINES, INC., 235 Mill Street, Akron, Iowa 51001. Applicant's representative: Roger Heyl (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* exempt from economic regulation under Section 203(b)(6) of the Act, when transported in mixed loads with bananas, from Mobile, Ala., to points in Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, and the ports of entry on the International Boundary line between the United States and Canada located in Minnesota, North Dakota, and Montana, restricted to the transportation of traffic having an immediate prior movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr., or Miami, Fla.

No. MC 133542 (Sub-No. 5), filed May 23, 1974. Applicant: FLOYD WILD, INC., P.O. Box 91, 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: *Fruit juice beverages; imitation flavored syrup; pancake mixes; and frozen foods*, (1) from Fort Dodge, Iowa, to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, West Virginia, Wisconsin, and Wyoming; and (2) from Marshall, Minn., and Fort Dodge, Iowa, to points in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington, under contract with Schwan's Sales Enterprises, Inc., at Marshall, Minn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Sioux Falls, S. Dak.

No. MC–133689 (Sub-No. 47) (Amendment), filed March 15, 1974, published in the FEDERAL REGISTER issue of April 25, 1974, and republished as amended this issue. Applicant: OVERLAND EXPRESS, INC., P.O. Box 2667, 651 First Street SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal, charcoal pellets, wood chips, vermiculite, lighter fluid, and fireplace logs* (except commodities in bulk), (1) from the plantsite and storage facilities utilized by Kingsford Charcoal Company, located at or near Parsons, W. Va., and Burnside, Ky., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin; and (2) from points in Gasconade, Maries, and Osage Counties, Mo., to points in Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin; (1) and (2) above restricted to traffic originating at the above named origins and destined to the above named destinations.

NOTE.—Applicant holds contract carrier authority in MC–76025 (Sub-No. 7), therefore dual operations may be involved. The purpose of this republication is to broaden the territorial description in paragraph (2). If a hearing is deemed necessary, the applicant does not specify a location.

No. MC–133966 (Sub-No. 34), filed May 21, 1974. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, Pa. 18707. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Avenue and 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral wool, mineral wool products, insulation and insulation materials* (except commodities in bulk), and *materials* used in the installation thereof, from points in Carbon, Lackawanna, Luzerne, and Schuylkill Counties, Pa., to points in Delaware, District of Columbia, Maryland, New York, Connecticut, New Hampshire, Rhode Island, Massachusetts, Vermont, Maine, Virginia, West Virginia, Indiana, Ohio, Michigan, Kentucky, North Carolina, South Carolina, and New Jersey.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC–133966 (Sub-No. 35), filed June 3, 1974. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, Pa. 18707. Applicant's representative: Kenneth R. Davis, 999 Union

Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Toys, games, and outdoor swing sets*, from Wilkes-Barre and Kingston, Pa., to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies* used in the manufacture and distribution of toys, games, and outdoor swing sets, from points in the United States (except Alaska and Hawaii), to Wilkes-Barre and Kingston, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa.

No. MC 134477 (Sub-No. 70), filed June 6, 1974. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Thomas D. Fischbach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Tex., to points in Connecticut, District of Columbia, Delaware, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and Wisconsin.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Minneapolis, Minn.

No. MC–134755 (Sub-No. 38), filed June 14, 1974. Applicant: CHARTER EXPRESS, INC., 1959 East Turner Street, Springfield, Mo. 65804. 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: *Meat, meat products, and meat by-products, and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant site and/or storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Tex., to points in Connecticut, District of Columbia, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia.

NOTE.—Applicant holds contract carrier authority in MC–138398, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Amarillo, Tex.

No. MC 135007 (Sub-No. 43), filed June 3, 1974. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, Nebr. 68127. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and used by manufacturers and wholesalers of household furnishings (except commodities in bulk and commodities which because of their size and weight require special equipment for loading and unloading), between points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, under a continuing contract or contracts with William Volker and Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif., or Omaha, Nebr.

No. MC 135007 (Sub-No. 44), filed June 6, 1974. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, Nebr. 68127. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Tex., to points in Connecticut, District of Columbia, Georgia, Illinois, Indiana, Massachusetts, Maine, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif. or Omaha, Nebr.

No. MC 135364 (Sub-No. 15), filed May 20, 1974. Applicant: MORWALL TRUCKING, INC., Rural Delivery No. 3, Box 76–C, Moscow, Pa. 18444. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Artificial Christmas trees, wreaths, garlands, and shrubbery, and materials and supplies* used in the manufacture and shipping of the above commodities, between the facilities of American Technical Industries, Inc., its divisions or subsidiaries at Lexington, Ky.; Blakely, Pa., and West Coxsackie, N.Y.; (2) *artificial Christmas trees, wreaths, garlands, and shrubbery*, from Lexington, Ky.; West Coxsackie, N.Y., and Blakely, Pa., to points in the United States east of Montana, Wyoming, Utah, and Arizona; and *materials and supplies* used in the manufacture and shipping of the above described commodities on return, under continuing contract with American Technical Industries, Inc., or its divisions or subsidiaries; (3) *artificial Christmas trees, wreaths, garlands, and shrubbery*, from Elizabeth, N.J., to points in the United States east of Montana, Wyoming, Utah, and Arizona and of *materials and supplies* used in the manufacture and shipping of the above described commodities on return, under a continuing contract with Puleo's Novelty Company; and (4) *artificial Christmas trees, wreaths, garlands, and shrubbery*, from Moosic, Pa., to points in the United States east of Montana, Wyoming, Utah, and Arizona, and of *materials and supplies* used in the manufacture and shipping of the above described commodities on return, under continuing contract with Glenwood Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 136220 (Sub-No. 11), filed May 24, 1974. Applicant: ROY SULLIVAN, doing business as SULLIVAN TRUCKING CO., 1705 N.E. Woodland, Ponca City, Okla. 74601. Applicant's representative: G. Timothy Armstrong, 280 National Foundation Life Building, 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum coke*, in open-top dump trailers, from Texas City, Tex., to Kremlin, Okla., and Port Arthur, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC–136318 (Sub-No. 24), filed April 18, 1974. Applicant: COYOTE TRUCK LINE, INC., 395 West Fleming Drive, Morganton, N.C. 28655. Applicant's representative: David R. Parker, 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) *Television sets, radios, phonographs, stereo systems, recorders, players, recording material, television stands, home, commercial and institutional furnishings, speaker systems and audio equipment* (except commodities in bulk, in tank vehicles) (2) *Accessories, components and parts* (except commodities in bulk, in tank vehicles) for the commodities set forth in (1) above; and (3) *Materials, supplies and equipment* (except commodities in bulk in tank vehicles) used in the manufacture, production and distribution of the commodities set forth in (1) and (2), between points in Tennessee, South Carolina, North Carolina, Indiana, Georgia, and California, under a continuing contract or contracts with RCA and its affiliates, restricted to traffic originating at or destined to the facilities utilized by RCA and its affiliates.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Atlanta, Ga.

No. MC 136647 (Sub-No. 16), filed May 13, 1974, published in the FEDERAL REGISTER issue of June 27, 1974 as No. MC 136647 (Sub-No. 15), and republished, in part, as reassigned this issue. Applicant: GREEN MOUNTAIN CARRIERS INC., P.O. Box 1319, Albany, N.Y. 12201. Applicant's representative: Gordon Sands Jr. (same address as applicant).

NOTE.—The purpose of this republication is to indicate the correct docket number assigned to this proceeding in No. MC–136647 (Sub-No. 16). The rest of the notice remains as previously published.

No. MC 138014 (Sub-No. 4), filed May 24, 1974. Applicant: BLUE HEN DELIVERY CO., INC., 50 Greenhill Avenue, Dover, Del. 19901. Applicant's representative: Charles E. Creager, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical appliances*, including radios, phonographs, recorders, and televisions, from Cornwells Heights, Pa., to points in Sussex, New Castle, and Kent Counties, Del., under a continuing contract or contracts with F. W. Woolworth Co. (Woolco Department Stores).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 138840 (Sub-No. 3), filed May 29, 1974. Applicant: KENNETH D. BENNETT AND STEVEN D. BENNETT, doing business as BENNETTVILLE FARMS, Rural Route, Soldier, Kans. 66540. Applicant's representative: Kenneth D. Bennett (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crude oil*, in bulk, in tank vehicles, from points in Jackson, Pottawatomie, and Nemaha Counties, Kans., to the petroleum terminal of the Carter-Waters Corporation at Falls City, Nebr., under a continuing contract or contracts with Carter-Waters Corp., Kansas City, Mo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Topeka, Kans., or Kansas City, Mo.

No. MC 138900 (Sub-No. 2), filed May 24, 1974. Applicant: REID J. CAVANAUGH, R.D. No. 1, Box 27, Connellsville, Pa. 15425. Applicant's representative: Reid J. Cavanaugh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Scrap metals*, from points in Fayette and Westmoreland Counties, Pa., to points in Ohio, West Virginia, and Michigan; (2) *amesite, crushed stone, sand, and gravel*, between points in Greene, Washington, Fayette, and Somerset Counties, Pa. and Garrett and Allegany Counties, Md., on the one hand, and, on the other, points in West Virginia, Maryland, and Pennsylvania; (3) *rough cut lumber, logs, wood chips, wood bark, and sawdust:* (a) between points in Pennsylvania, New York, West Virginia, and Maryland, on the one hand, and, on the other, points in Virginia, Ohio, North Carolina, New Jersey, Kentucky, and South Carolina; and (b) between points in Pennsylvania, New York, West Virginia, and Maryland; (4) *coal*, between points in Indiana, Armstrong, Fayette, Westmoreland, Somerset, Greene, and Washington Counties, Pa., on the one hand, and, on the other, points in Maryland and West Virginia on and west of U.S. Highway 220 and points in Ohio; (5) *coke and cinders:* (a) from points in Fayette and Westmoreland Counties, Pa., to points in West Virginia, Maryland, New York, New Jersey, Ohio, Michigan, and Indiana; and (b) from points in West Virginia on and west of U.S. Highway 220, to points in Pennsylvania, Maryland, New York, New Jersey, Ohio, Michigan, and Indiana; (6) *livestock feed and animal feed:* (a) from points in Fayette County, Pa., to points in West Virginia, Maryland, Virginia, Ohio, and New York; and (b) from points in New York on and west of a line beginning at Point Breeze, N.Y. and extending along New York Highway 98 to its intersection with U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-New York State Boundary line, to points in Pennsylvania on and west of U.S. Highway 219; (7) *sand*, in bulk, in dump vehicles, from Glassrock, Garrettsville, and Lowellville, Ohio, to the Village of Mt. Braddock, North Union Township, Fayette County, Pa.; and (8) *aluminum dross*, in bulk, in dump vehicles: (a) from Toledo, Ohio, and East Chicago, Ind., to the Village of Mt. Braddock, North Union Township, Fayette County, Pa.; and (b) from Russellville, Ala., to the Village of Mt. Braddock, North Union Township, Fayette County, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa. or Washington, D.C.

No. MC 139193 (Sub-No. 11), filed May 24, 1974. Applicant: ROBERTS & OAKE, INC., 208 South LaSalle Street, Chicago, Ill. 60604. Applicant's representative: Jacob P. Billig, 1126 16th St., NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as defined by the Commission in Section 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., to Dothan, Ala., and points in Georgia, Florida, North Carolina, South Carolina, and Tennessee; and (2) *such commodities as are used by meat packinghouses in the conduct of their business*, from points in the destination states described in (1) above, to Sioux Falls, S. Dak., under contract with John Morrell & Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 139424 (Sub-No. 2) (AMENDMENT), filed February 28, 1974, published in the FEDERAL REGISTER issue of April 11, 1974, and June 27, 1974, and published in third publication as amended this issue. Applicant: FISHER TRUCKING COMPANY, INC., 640 Pleasant Mills Road, Hammonton, N.J. 08037. 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) *Waste plastic resins*, in bulk, in dump vehicles, from Perryville, Md., Delaware City, Del., Pottstown, Pa., Calvert City, Ky., Ashtabula, Ohio, and Burlington, N.J., to S. Plainfield, N.J., Brooklyn, N.Y., and Chicago, Ill.; and (2) *finished floor products* (a) from South Plainfield, N.J., and Brooklyn, N.Y., to points in West Virginia, Kentucky, Pennsylvania, Ohio, and Indiana; (b) from Chicago, Ill., to points in West Virginia, Kentucky, Pennsylvania, Ohio, Indiana, New Jersey, and New York.

NOTE.—The purpose of this amendment is to add paragraph (b) to part (2) of the application. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 139718 (Sub-No. 1), filed April 18, 1974. Applicant: ALLAN DOW, doing business as DOW'S MAIN STREET CHEVRON, 26 West Main Street, Fort Kent, Maine 04743. Applicant's representative: Allan Dow (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Skidders*, between points in Aroostook and Penobscot Counties, Maine and the ports of entry on the International Boundary line between the United States and Canada located at or near Fort Kent, Maine.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Bangor, Maine.

No. MC 139742 (Sub-No. 1), filed May 6, 1974. Applicant: JACK CAMPBELL VALENTINE, doing business as VALENTINE'S TRUCKING, Rt. #5, Paris, Tenn. 38242. Applicant's representative: Robert F. Swayne, P.O. Box 399, Paris, Tenn. 38242. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rough steel castings*, (1) From Attalla, Ala., to Nashville and Paris, Tenn.; (2) From Paris, Tenn., to Nashville, Tenn. and Attalla, Ala.; (3) From Attalla, Ala., to Mena, Ark.; and (4) From Mena, Ark., to Attalla, Ala., under a continuing contract or contracts with Emerson Electric. If a hearing is deemed necessary, applicant requests it be held at Memphis or Nashville, Tenn.

No. MC–139758 (Sub-No. 2), filed May 29, 1974. Applicant: LIVINGSTON TRANSPORTATION LIMITED, 81 Gaylord Road, St. Thomas, Ontario, Canada N5P3S3. Applicant's representative: Arthur P. Boynton, 1600 First Federal Building, Detroit, Mich. 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Auto parts* from the site of the Hare Cartage Inc. terminal located at Detroit, Mich., to the ports of entry on the International Boundary line be-

tween the United States and Canada at or near Detroit, Mich., under a continuing contract with Livingston Industries Limited, restricted to traffic having a subsequent movement in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich.

No. MC 139815 (Sub-No. 1) (AMENDMENT), filed May 13, 1974, published in the FEDERAL REGISTER issue of June 27, 1974 as No. MC–139856, and republished, in part, as reassigned this issue. Applicant: ELTON BURISH TRUCKING, INC., Route 2, Box 58A, Marathon, Wis. 54448. Applicant's representative: Nancy J. Johnson, 4506 Regent Street, Suite 100, Madison, Wis. 53705

NOTE.—The purpose of this republication is to indicate the correct docket number assigned to this proceeding in No. MC–139815 (Sub-No. 1). The rest of the notice remains as previously published.

No. MC 139861, filed May 20, 1974. Applicant: NORMAN R. JACKSON, an individual, Box 258–A, R.D. No. 1, Oxford, Pa. 19363. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hand tools* (except power), from the plant site of Ennis Manufacturing Co., located at Reading, Pa., to Chicago, Ill.; Kansas City, Mo.; Los Angeles, Oakland, San Francisco, Calif.; Salt Lake City, Utah; Denver, Colo.; Dallas, Tex.; Portland, Oregon and Seattle, Wash.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC–139889 (Sub-No. 1), filed May 30, 1974. Applicant: EDGAR TREMBLAY, R.R. No. 6, Coaticook (Stanstead), Quebec. Applicant's representative: (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from ports of entry on the International Boundary line between the United States and Canada, located in New Hampshire and Vermont, to points in Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt.

No. MC–139904, filed May 17, 1974. Applicant: INGRAM TRUCKING CO., INC., Box 306, Ball Ground, Ga. 30107. 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: (1) *Monumental, building, and crushed marble*, between Canton, Marblehill, Nelson, and Tate, Ga., on the one hand, and, on the other, points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and the District of Columbia; (2) *Prefabricated marble water closet stall partitions*, complete, from Nelson, Ga., to points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and the District of Columbia; (3) (a) *Monumental and building marble*, other than crushed marble, from Marblehill, Nelson, and Tate, Ga., to points in New Hampshire, and Vermont, (b) *Crushed marble*, in bulk, from Whitestone, Ga., to the District of Columbia, and points in Arkansas, Delaware, Iowa, Massachusetts, Missouri, New Hampshire, New Jersey, Vermont, Wisconsin, Oklahoma, Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia; (4) *Stone setting contractors' machinery equipment* (except those commodities which because of size or weight require the use of special equipment), between Tate, Ga., on the one hand, and, on the other, points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, New Hampshire, Vermont, and the District of Columbia; (5) *Crushed stone*, from points in Jefferson and Madison Counties, Mo., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and the District of Columbia; (6) *Rubble stone*, from points in Bartow and Cherokee Counties, Ga., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; (7) *Crushed stone*, from points in Burnet and Llano Counties, Tex., to points in Delaware, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia;

(8) *Stone*, from points in Chattooga County, Ga., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Vermont, West Virginia, Wisconsin, Minnesota, Nebraska, and the District of Columbia; and (9) (a) *Laminated panels*, from Nelson, Ga., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; and (b) *Cement asbestos panels* from Mansfield, N.J., to Nelson, Ga.; (1) through (9) above restricted to traffic originating at and destined to the points named.

NOTE.—Applicant currently holds the above authority as a contract carrier in MC–110804 and Sub-Nos. 1, 2, 5, 6, 7, 8, 9, and 10. The purpose of this application is to convert the existing contract carrier authority to common carrier authority. If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 139910, filed May 20, 1974. Applicant: F. W. FAIRCLOTH AND O. L. MARCANTEL, a partnership, doing business as FAIR-MAR TRUCKING COMPANY, P.O. Box 1125, DeQuincy, La. 70633. Applicant's representative: Mike Cotten, P.O. Box 1148, Austin, Tex. 78767. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crossties*, from points in Calcasieu, Jefferson Davis, Beauregard, and Vernon Parishes, La., to Houston, Tex., under continuing contract or contracts with Gross and Janes Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or New Orleans, La.

No. MC 139911, filed May 20, 1974. Applicant: MAN/RO TRUCKING CORP., 16 Clermont Avenue, Brooklyn, N.Y. 11205. Applicant's representative: William D. Traub, 10 East 40th Street, New York, N.Y. 10016. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail wearing apparel stores, and *supplies, equipment and fixtures* used in the operations of such stores, between the stores and shipping and other facilities utilized by Bond Stores, Inc., located at New York, N.Y.; points in Nassau, Suffolk, and Westchester Counties, N.Y.; and points in Camden, Monmouth, Essex, Middlesex, Bergen, and Hudson Counties, N.J., under contract with Bond Stores, Inc., at New York, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 139913, filed May 16, 1974. Applicant: FOSTER's FREIGHT, INC., 174 Passiac Street, Garfield, N.J. 07026. Applicant's representative: Rober 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: *Such merchandise as dealt in by*

wholesale, retail and chain grocery food business houses, and chain retail department stores, and in connection therewith, *such equipment, materials and supplies* used in the conduct of such businesses (except commodities in bulk), between Vornado, Inc.'s facilities in Carlstadt, East Brunswick, East Hanover, Edison, Fairfield, Garfield, North Brunswick, and South Plainfield, N.J., and Guilderland Center, N.Y., and Sante Fe Springs, Calif., on the one hand, and, on the other, points in the United States (except Hawaii and Alaska), under a continuing contract with Vornado, Inc., and its subsidiaries.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Newark, N.J.

PASSENGER APPLICATIONS

No. MC–26451 (Sub-No. 17), filed May 28, 1974. Applicant: INTERMOUNTAIN TRANSPORTATION COMPANY, a Corporation, 7–9 Main Street, Anaconda, Mont. 59711. Applicant's representative: John L. McKeon, 124 Oak Street, Anaconda, Mont. 59711. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *Passengers, their baggage, and express and newspapers in the same vehicle,* Between Great Falls and Missoula, Mont.: From Great Falls, Mont. over Interstate Highway 15 (U.S. Highway 91) to junction U.S. Highway 89, thence over U.S. Highway 89 to junction Montana Highway 200, thence over Montana Highway 200 to junction Interstate Highway 90 (U.S. Highway 10) at Milltown, Mont., thence over Interstate Highway 90 (U.S. Highway 10) to Missoula, Mont., and return over the same route, serving Vaughn, Sun River, Ft. Shaw, Simms, Bowman's Corner, Lincoln, Ovando, Clearwater, Potomac, Bonner, and Milltown, Mont. as intermediate points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Helena or Billings, Mont.

No. MC–116370 (Sub-No. 1), filed May 31, 1974. Applicant: CHARLES W. NAPIERSKI, doing business as CATAWESE COACH LINES, R.D. 2, Catawissa, Pa. 17820. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Passengers and their baggage,* in charter and special operations, beginning and ending at points in Lycoming, Northumberland, Montour, and Columbia Counties, Pa., and extending to points in the United States, including Alaska but excluding Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Bloomsburg, Pa.

No. MC 139599 (Sub-No. 2), filed May 21, 1974. Applicant: COLUMBIA TRANSCO COMPANY, INC., 6822 Wisconsin Avenue, Chevy Chase, Md. 20015. Applicant's representative: David V. Mason, 2054 North 14th Street, Arlington, Va., 22201. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Passengers,* between the IBM facilities in Gaithersburg and Bethesda, Md., on the one hand, and, on the other, the IBM facilities in Manassas, Va., under a continuing contract or contracts with International Business Machines Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

BROKER APPLICATION

No. MC 130249, filed May 24, 1974. Applicant: ARNOLD A KAJA AND RONALD E. SCHULTZ, doing business as KARON TOURS, 419 Richard Street, Waukesha, Wis. 53186. Applicant's representative: Arnold A. Kaja (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at New Berlin and Waukesha, Wis., to sell to motor carriers, the transportation of *groups of passengers and their baggage,* in charter operations, beginning and ending at points in Wisconsin, and extending to points in Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Milwaukee, Wis.

FREIGHT FORWARDER APPLICATION

No. FF 453, filed May 23, 1974. Applicant: AMERICAN CONTAINER EXPRESS, INC., doing business as AUSTASIA CONTAINER EXPRESS, 1838 Book Building, Detroit, Mich. 48226. Applicant's representative: Charles F. Warren, Esq., 1100 Connecticut Avenue, NW., Washington, D.C. 20036. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder,* through use of the facilities of common carriers by railroad, motor vehicle, water, and express, in the transportation of *General commodities* (except household goods as defined by the Commission, unaccompanied baggage, and used automobiles) moving in containers, from points in Michigan and Ohio, to the International Boundary line between the United States and Canada located at or near Vancouver, Canada, restricted to export traffic having a subsequent movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–15761 Filed 7–10–74;8:45 am]

ORGANIZATION OF DIVISIONS AND BOARDS AND ASSIGNMENT OF WORK, BUSINESS AND FUNCTIONS

JUNE 26, 1974.

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 26th day of June, 1974.

Section 17 of the Interstate Commerce Act, as amended (49 U.S.C. 17) and other provisions of law being under consideration:

It is ordered, That the organization of divisions and boards and assignment of work, business and functions be, and it is hereby, revised as recorded in the statement set forth below.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

ORGANIZATION MINUTES

(References are to the Interstate Commerce Act, as amended, unless otherwise specified.)

Chairman—George M. Stafford; Vice-Chairman—Alfred T. MacFarland (Jan. 1, 1974–Dec. 31, 1974).

DIVISIONS

Division 1—Commissioners Rupert L. Murphy (Chairman), Robert C. Gresham, and A. Daniel O'Neal.

Division 2—Commissioners Virginia Mae Brown (Chairman), Dale W. Hardin, and Charles L. Clapp.

Division 3—Commissioners Kenneth H. Tuggle (Chairman), Willard Deason, and W. Donald Brewer.

COMMISSION COMMITTEES

Legislation—George M. Stafford, Chairman Ex Officio, Alfred T. MacFarland, Robert C. Gresham, A. Daniel O'Neal.

Rules—George M. Stafford, Chairman Ex Officio, Alfred T. MacFarland, and Dale W. Hardin.

POLICY AND PLANNING—(To be announced)

1.1 The following organization schedule and assignment of work and functions shall be effective until duly changed:

DIVISIONS OF THE COMMISSION

2.1 There shall be three divisions of the Commission to be known respectively, as divisions one, two and three.

2.2 As provided by section 17 of the Interstate Commerce Act, as amended, each division shall have authority to hear and determine, order, certify, or report or otherwise act as to any work, business or functions assigned or referred to it under the provisions of that section and with respect thereto shall have all the jurisdiction and powers conferred by law upon the Commission and be subject to the same duties and obligations.

2.3 Each division with regard to any case or matter assigned to it, or any question brought to it under this delegation of duty and authority, may call upon the entire Commission for advice and counsel or for consideration of any case or question by an additional Commissioner or Commissioners assigned thereto; and the Commission may recall and bring before it as such any case matter or question so allotted or assigned and may either dispose of such case, matter, or question itself or may assign or refer the matter to the same or another division.

2.4 From such assignment of work there shall be reserved for consideration and disposition by the Commission (1) all investigations on the Commission's own motion heretofore entered upon and hereafter instituted except as may be otherwise provided and (2) all applications for rehearing, reargument or other reconsideration and all cases before the Commission for reconsideration, except as hereinafter otherwise provided; and there shall also be excepted from this assignment of work all cases submitted to the Commission and specifically referred to a division the various cases enumerated in any previous order of the Commission as

reserved for consideration and disposition by the Commission and all cases otherwise specifically assigned. The Commission reserved to itself the determination (1) as to the disposition of any Commission proceedings subsequent to an adverse decision of a court, and (2) as to the filing and general content of a memorandum or brief filed on behalf of the Commission as amicus curiae in any court.

2.5 When a Commissioner is transferred from a division he shall continue to serve as a member of such division in lieu of his successor for the purpose of clearing up accumulated work which shall be limited to the disposition of cases submitted on oral argument prior thereto, and still pending for decision, cases in which drafts of final reports or orders have been circulated, and other matters requiring official action which are under active consideration at the time of the transfer.

2.6 Divisions as constituted prior to March 7, 1961, shall remain in existence for the purpose of disposing of matters circulated to them, or which have been the subject of oral argument, before that date.

TERMS, DUTIES, AND RESPONSIBILITIES OF THE CHAIRMAN, VICE-CHAIRMAN, AND SENIOR COMMISSIONER PRESENT

3.1 The Chairman and Vice-Chairman each shall be elected by the Commission for a term of one calendar year. Prior to election the Chairman must have served three full years as a member of the Commission and the Vice-Chairman must have served two full years as a member of the Commission. Each shall be relieved during his term of any regular assignment as a member of a division. In the absence of the Chairman, his duties and responsibilities are delegated to the Vice-Chairman, who shall be Acting Chairman. In the absence of the Vice-Chairman, and the Chairman is present, the duties and responsibilities of the Vice-Chairman are delegated to the Chairman. In the absence of both the Chairman and Vice-Chairman, their respective duties and responsibilities are delegated to the senior Commissioner present, who shall be Acting Chairman. In addition to his duties as indicated under "Assignment of Duties to Individual Commissioners" and "Reporting of Heads of Bureau and Offices," the Vice-Chairman may act as a member of any division of the Commission, when designated by the Chairman, when a member is unable to serve because of absence or other cause. Duties and responsibilities of the Chairman, Vice-Chairman and the senior Commissioner present are in addition to any other duties that may be assigned or delegated to them. The following duties and responsibilities are delegated to the Chairman:

3.2(a) He shall be the executive head of the Commission with general responsibility for (1) the over-all management and functioning of the Commission, (2) the formulation of plans and policies designated to increase the effectiveness of the Commission in the administration of the Interstate Commerce Act and related acts, (3) prompt identification and early resolution, at the appropriate level, of major substantive regulatory problems, and (4) the development and improvement of staff support to carry out the duties and functions of the Commission.

(b) Subject to the provisions of paragraph (c) of this item, there are hereby delegated to the Chairman of the Commission the executive and administrative functions of the Commission with respect to: (1) the appointment, supervision, and removal of personnel employed under the Commission, except those in the immediate offices of Commissioners other than the Chairman, subject to Civil Service rules and regulations, (2) the distribution of business among such personnel and among administrative units of the Commission, (3) the use and expenditure of funds, and (4) civil defense and defense mobilization functions transferred, delegated, or assigned to the Commission, including the functions delegated, within the meaning of section 201(a)(3) of Executive Order 10480 of August 14, 1953, as amended, to "the Commissioner of the Interstate Commerce Commission who is responsible for the supervision of the bureau which administers the car-service functions of the Commission." Existing delegations of executive or administrative functions of the divisions, individual Commissioners, boards of employees, or individual employees shall remain in effect until the further order of the Chairman.

(c)(1) In carrying out any of his functions the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make. (2) The appointment by the Chairman of the heads of offices, bureaus, the Congressional Liaison Officer, and the Legislative Counsel of the Commission shall be subject to the approval of the Commission.

3.3 He shall preside at all sessions of the Commission, and shall see that every vote and official act of the Commission required by law to be recorded is accurately and promptly recorded by the Secretary or the person designated by the Commission for such purpose.

3.4 Except regular sessions, which shall be provided for by general regulation of the Commission, he shall call the Commission into special session whenever in his opinion any matter or business of the Commission so requires, but he shall in any event, call a special session for the consideration of any matter or business upon request of a majority of the members.

3.5 He shall exercise general control over the Commission's argument calendar and conference agenda.

3.6 He shall act as correspondent and spokesman for the Commission in all matters where an official expression of the Commission is required.

3.7 He shall (a) bring to the attention of any Commissioner, division, or board any delay or failure in the work under his or its supervision, and (b) initiate ways and means of correcting or preventing avoidable delays in the performance of any work or the disposition of any official matter.

3.8 He shall be ex officio Chairman of the Committee on Legislation and of the Committee on Rules. He shall appoint a standing Committee and may appoint such ad hoc committees on Policy and Planning as he may deem necessary to aid him in discharging his responsibilities under item 3.2(a)(2) of these minutes.

3.9 He may designate a Commissioner to fill a vacancy on any Committee until the Commission otherwise orders.

3.10 Pursuant to the general objectives and broad policies, or to specific instructions of the Commission, he shall supervise, guide and direct the Managing Director, the Secretary, and the General Counsel in the performance of their duties.

3.11 In accordance with section 1003(a) of the Federal Aviation Act of 1958, he is directed, when the occasion arises, in conjunction with corresponding action by the Chairman of the Civil Aeronautics Board, to designate a like number of Commissioners to function as members of a joint board to consider and pass upon matters referred to it as provided under subsection (c) of such section.

3.12 The Chairman, upon joint request of the Chairman of two Divisions, is authorized to reassign interrelated proceedings to a single Division or Board of Employees to facilitate concurrent handling and disposition of the proceedings.

3.13 The Chairman may from time to time make such provisions (consistent with the delegation limitations of section 17(2)) as he shall deem appropriate authorizing the performance by any Commissioner or by any officer, employee or administrative unit under his jurisdiction of any function delegated to the Chairman.

ASSIGNMENT OF DUTIES TO DIVISION

4.1 Work, business, and functions of the Commission are assigned and referred to the respective divisions for action thereon except as otherwise provided in item 7, as follows:

4.2 *Division One—Operating Rights Division.*—(a) Section 5 (2) to (13), so far as related to authorizing continuance of control, within the principle of the *Hannon* and *Schwerman* cases, 39 M.C.C. 620, 80 M.C.C. 382, upon institution of newly-authorized operations, except matters assigned to and determined by a review board pursuant to items 7.12(d) and 7.12(g).

(b) Section 203(b), relating to partial exemption from the provisions of part II, including determinations as to the necessity for application of part II to transportation within a municipality, between contiguous municipalities, or within an adjacent zone, and the determination of the limits of such zones, referred to in section 203(b)(8) and to casual transportation operations by motor vehicles, referred to in section 203(b)(9).

(c) Section 204(a)(1), (2), (3), (3a), and (5), so far as relates to reasonable requirements with respect to continuous and adequate service and transportation of baggage and express by common carriers, but not including matters assigned to and determined by an Operations Board pursuant to item 7.8.

(d) Section 204(a)(4) and section 211(a) to (c), inclusive, relating to the regulation and brokers (other than their accounts, records, and reports, the transfer of brokers' licenses, changes in control of corporations or associations holding brokers' licenses and security for the protection of the public.)

(e) Section 204(a)(4a), relating to certificates of exemption to motor carriers operating solely within a single state, except matters assigned to and determined by the Operating Rights Board pursuant to item 7.11(a).

(f) Section 204(a)(7), so far as relates to inquiries into the management of the business of motor carriers and brokers and persons controlling, controlled by, or under common control with motor carriers, and requests for information deemed necessary to carry out the provisions of part II.

(g) Section 204(b), relating to the establishment of classifications of brokers or of groups of carriers and just and reasonable rules, regulations and requirements therefore.

(h) Sections 204(c), 304(e) and 403(f), so far as relating to investigation of complaints of alleged non-compliance with the provisions of parts II, III, and IV assigned to Division One or requirements established pursuant thereto.

(i) Section 204(e) and (f), and section 204(a)(6), so far as it relates to the lease and interchange of vehicles by motor carriers, and the lease and interchange regulations (49 CFR Part 1057), except, in each case, matters assigned to and determined by an Operations Board pursuant to item 7.8.

(j) Section 206, 207, and 208, relating to certificates of public convenience and neces-

sity, and certificates of registration, except matters assigned to and determined by the Operating Rights Board pursuant to items 7.11(a) and 7.11(b).

(k) Section 209, relating to permits, except matters assigned to and determined by the Operating Rights Board pursuant to item 7.11(a).

(l) Section 210, relating to dual operations, except matters assigned to and determined by the Operating Rights Board pursuant to item 7.11(a).

(m) Section 210(a) relating to applications for temporary authority for service by common or contract carriers by motor vehicle when certified to the Division by the Motor Carrier Board.

(n) Section 211, relating to brokerage licenses, except matters assigned to and determined by the Operating Rights Board pursuant to item 7.11(a).

(o) Section 212(a) (including section 204(c) when pertinent thereto), relating to suspension, change, and revocation of certificates, permits, and licenses except determination of uncontested suspension, change, or revocation proceedings which have not involved the taking of testimony at a public hearing unless certified to the Division by the Motor Carrier Board.

(p) Section 212(c), relating to issuance of certificates of public convenience and necessity in lieu of permits outstanding on August 22, 1957.

(q) Section 215 and section 211(c), relating to security for the protection of the public, except matters assigned to and determined by an Operations Board pursuant to item 7.8.

(r) Section 224, relating to identification of motor carriers.

(s) Section 302(e) and section 303(b) to (h), inclusive, relating to exemptions of water carriers from the provisions of part III.

(t) Section 303(1), 309, and 310, relating to certificates of public convenience and necessity and permits; section 311(a), relating to temporary authorities, when certified to the Division by the Motor Carrier Board; section 312(a), relating to suspension, change, or revocation of certificates and permits except determination of uncontested proceedings which have not involved the taking of testimony at a public hearing unless certified to the Division by the Motor Carrier Board; section 410(a) to (f), inclusive, section 410(h) and (i), relating to permits, except matters assigned to and determined by the Operating Rights Board pursuant to item 7.11(a) or the Motor Carrier Board pursuant to Item 7.4(c).

(u) Section 304(c), relating to classifications of groups of water carriers subject to part III and rules, regulations, and requirements relating thereto.

(v) Section 403(c) and (d), relating to authority to prescribe reasonable rules and regulations governing the filing of surety bonds, policies of insurance, etc., by freight forwarders, except matters assigned to and determined by an Operations Board pursuant to item 7.8.

(w) 39 U.S.C. 5203(f), relating to the evaluation and termination of orders or determinations of the United States Postal Service, directing motor common carriers holding certificates of public convenience and necessity issued by the Commission (other than passenger carriers) to perform mail transportation service.

(x) Any matters arising under parts II, III, and IV, not specifically assigned or referred to other Divisions, except matters relating to the Commission's Deviation Rules (49 CFR Part 1042, or as amended) assigned to and determined by the Operating Rights Board, pursuant to item 7.11(c).

(y) In connection with the foregoing assignments, Division 1 is authorized to institute, conduct, and determine investigations into motor carrier, water carrier, and freight forwarder practices pertaining to matters covered by such assignments.

4.3 *Division Two—Rates, Tariffs, and Valuation Division.*—(a) Section 1 (14)(b), relating to contracts of common carriers by railroad or express companies for the furnishing of protective service against heat or cold.

(b) Section 3 (2), 223, 318, and 414, so far as relating to the prescription of rules governing the delivery of freight and the settlement of rates and charges, and to prevent unjust discrimination.

(c) Section 4, relating to long-and-short haul and aggregate-of-intermediate rates, and relief therefrom (except matters assigned under item 6.3(i) when such proceedings have been formally heard, when applications are certified to the Division by the Suspension and Fourth Section Board, when fourth-section relief arises as a result of an order or requirement of the Commission, or a division thereof, or when applications are to be considered in connection with general rate-increase proceedings.

(d) Section 5a, relating to agreements between or among carriers.

(e) Section 6, except paragraphs (11) and (12), relating to schedules of carriers under part I, sections 217 and 218 relating to tariffs of common carriers and schedules of contract carriers under part II, section 306 relating to tariffs of common carriers and schedules of contract carriers under part III, and section 405 relating to tariffs of freight forwarders under part IV—including, among other matters, the promulgation or prescription of forms, specifications, rules, or regulations to effectuate such provisions of law, as well as applications or petitions involving the construction, interpretation or application of such forms, specifications, rules or regulations, except matters arising under sections 6(3), 217(c), 218(a), 306(d), 306(e) and 405(e) and 405(d), assigned to and determined by the Special Permission Board pursion by the Special Permission Board or resuant to item 7.9 unless certified to the Divicalled by the Division, and except matters arising under sections 6(6), 217(a), 306(b), and 405(b), assigned to and determined by the Tariff Rules Board pursuant to item 7.14 unless certified to the Division by the Tariff Rules Board or recalled by the Division.

(f) Section 6 (11) and (12), relating to jurisdiction over rail and water traffic with respect to physical connections between rail lines and docks, the establishment of proportional rates to or from ports, and through rail-and-water arrangements in foreign commerce, conferred upon the Commission by the Panama Canal Act, 49 U.S.C. 51; and section 201(c), Transportation Act, 1920, as amended, 49 U.S.C. 141(c).

(g) Institution of investigations of intrastate rates, fares, and charges, classifications and practices under section 13(3) of part I and section 406(f) of part IV on the petition of carriers or freight forwarders.

(h) Sections 15(7), 216(g), 218(c), 307(g), and (i), and 406(e), relating to the disposition (1) by declining to suspend or (2) by entering an order of investigation or (3) by entering an order of investigation and suspension, either on its own motion or on petitions or requests for suspension of schedules and tariffs, and relating to authority to institute investigations into rates, fares, charges, and practices of carriers under parts I, II, III, and IV, as ancillary to such investigations or such investigation and suspension proceedings: (1) when there are involved petitions for suspension of schedules or tariffs files in purported compliance with any decision, order, or requirement of the Commission or a Division thereof, or (2) when such matter is certified to the Division by the Suspension and Fourth Section Board or recalled by the Division.

(i) Sections 15(13), 225, 314, and 415, relating to fixation of reasonable allowances to the owner of property transported for transportation services rendered, and I. & S. No. 11, The Tap Line Case.

(j) Section 19a, relating to the valuation of the property of carriers.

(k) Section 20(1) to (10), inclusive; section 204(a)(1), (2) and (4); section 220(a) to (f), inclusive; section 222(b), (d), and (g); sections 313, 316(b), 317(d), and (e); and sections 412, 417(b), and 421(d) and (e), so far as those sections relate to accounting and statistical reports, records, and accounts of carriers, lessors, brokers, freight forwarders and other persons under parts I, II, III, and IV, and so far as matters arising under the stated sections are not assigned.

(l) Section 20(11) of part I, section 219 of part II, and section 413 of part IV so far as relating to the authorization of released rates and ratings except matters assigned to and determined by the Released Rates Board pursuant to item 7.10 unless certified to the Division by the Released Rates Board or recalled by the Division, and except matters assigned under item 6.3(i).

(m) Section 22, except matters assigned under item 6.3(i).

(n) Section 204(c), section 304(e), and section 403(f), so far as relating to the investigation of complaints of alleged noncompliance with provisions of parts II, III, and IV hereinbefore assigned to Division Two or requirements established pursuant thereto, except as otherwise assigned to the Motor Carrier Board (Item 7.4(b)) and Division 1 (item 4.2(o)).

(o) Section 220(a) relating to contracts between motor contract carriers and shippers.

(p) Section 304(d) of part III, relating to relief from the provisions of that part because of competition from carriers engaged in foreign commerce.

(q) Section 409 relating to contracts between freight forwarders and motor carriers, including authority to institute, conduct, and determine investigations pertaining thereto.

(r) All formal cases not otherwise herein assigned or referred to another division, or reserved to the Commission, arising under part I, and all formal cases involving rates, fares, or charges arising under parts II, III, and IV.

(s) All matters arising under the provisions of chapter 50 or chapter 52 of title 39, United States Code (39 U.S.C. 5001 and 5201), relating to the transportation of mail by surface carriers, including the determination of fair and reasonable compensation for mail transportation, but not including matters arising under section 5203(f) of title 39, assigned under item 4.2(w).

(t) Authority to institute, conduct and determine investigations into rates, fares, charges, classifications, and practices related thereto, including the reference of matters to joint boards as provided for in section 1003 of the Federal Aviation Act of 1958.

4.4 *Division Three—Finance and Service.*—(a) Section 1(9), relating to switch connections.

(b) Section 1(10) to (14)(a), inclusive, and section 1(15) to (17), inclusive, relating to car-service and emergency directions with respect thereto, except matters assigned to and determined by the Railroad Service Board pursuant to item 7.8(c).

(c) Section 1(18) to (20), inclusive, relating to certificates of public convenience and

necessity, except determination of applications which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits, unless certified to the Division by a review board or recalled by the Division. (See item 7.12(f).)

(d) Section 1(21) so far as relating to the compulsory construction of new roads or procurements of additional facilities.

(e) Section 3(5), relating to requirement of common use of terminals and compensation therefor.

(f) Section 5(1), relating to the pooling of traffic, service, or gross or not earnings of common carriers subject to the act.

(g) Section 5 (2) to (13), inclusive (except matters assigned to Division 1) relating to consolidations, mergers, purchases, leases, operating contracts, and acquisitions of control of carriers, non-carrier control, and trackage rights, including matters of public convenience and necessity under section 207 and consistency with the public interest under section 209 directly related thereto, except determination of applications under section 5(2) and aforesaid related matters under sections 207 and 209 which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits, unless certified to the Division by a review board or recalled by the Division. (See item 7.12 (d) and (g).)

(h) Section 5 (14) to (16), inclusive, relating to common control of railroads and common carriers by water.

(i) Section 13a, relating to discontinuances or changes of railroad operations or services.

(j) Section 15(10), relating to the direction of the routing of unrouted traffic.

(k) Section 20a (other than matters assigned under item 6.6(a) relating to interlocking directorates) and 214, relating to securities, except determination of applications which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits, unless certified to the Division by an employee board or recalled by the Division. (See items 7.6(a) and 7.12 (d), (f), and (g).)

(l) Section 20b relating to voluntary adjustments of capital structures under part I.

(m) Matters arising under sections 20c and 323, providing for the recording or trust agreements and other evidences of equipment indebtedness of railroads or water carriers.

(n) (Deleted)

(o) (Deleted)

(p) Section 204(a)(4) relating to transfer of brokers' licenses and changes in control of corporations or associations holding brokers' licenses; sections 206(a) (6) and (7) relating to transfer of certificates of registration and rights to operate pending the determination of applications for certificates of registration; sections 212(b) and 312 relating to transfer of certificates and permits; and section 410(g) relating to transfer of permits; except determination of applications which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits, unless certified to the Division by the Motor Carrier Board or recalled by the Division. (See item 7.4).

(q) Sections 204(c), 304(e), and 403(f), so far as relating to the investigation of complaints of alleged non-compliance with provisions of parts II, III, and IV, hereinbefore assigned to Division 3 or requirements established pursuant thereto.

(r) Sections 210a(b) and 311(b) relating to applications for temporary authority when certified to the Division by a review board or recalled by the Division. (See item 7.12 (e) and (h)).

(s) Section 403(b), relating to establishment of reasonable requirements with respect to continuous and adequate service by freight forwarders.

(t) Section 404(d), relating to agreements between freight forwarders for joint loading of traffic.

(u) Section 411 (d) and (f), relating to investigation of alleged violations of section 411 (a), (b), and (c).

(v) Part V, relating to the guaranty of loans to common carriers by railroad, excepting matters relating to the closing of such transactions, which are delegated by item 6.5(b) hereof to the Chairman of Division 3, unless certified to the Division by said Commissioner.

(w) The Uniform Bankruptcy Act, as amended, 11 U.S.C. relating to the reorganization of corporations subject to the exercise of the regulatory powers of the Commission.

(x) Section 3 of Pub. L. 478 relating to review by the Commission prior to confirmation by the courts of plans of reorganization previously approved by the Commission.

(y) Matters arising under the Clayton Antitrust Act, as amended.

(z) Matters arising under title IV of the Rail Passenger Service Act of 1970 (84 Stat. 1334) relating to the transfer to the National Railroad Passenger Corporation of intercity rail passenger service, the provision by railroads of services to the Corporation, and the use by the Corporation of tracks and other facilities of railroads; and title VIII of said Act (84 Stat. 1339) relating to prescribing regulations concerning safe and adequate service, equipment and facilities for intercity rail passenger service.

(aa) Matters arising under the Railroad Retirement Act of 1937, Railroad Retirement Tax Act, Railroad Unemployment Insurance Act, and the Railway Labor Act, as respectively amended, except matters assigned to and determined by the Railroad Service Board pursuant to item 7.8(c).

(bb) In connection with foregoing assignments, Division 3 is authorized to institute, conduct and determine investigations pertaining to matters covered by such assignments.

COMMITTEES OF THE COMMISSION

5.1 There shall be a Committee on Legislation, a Committee on Rules, and a Committee on Policy and Planning composed of three Commissioners each.

ASSIGNMENT OF DUTIES TO INDIVIDUAL COMMISSIONERS

6.1 The following portions of the work, business, and functions of the Commission are assigned and referred to individual Commissioners as herein designated:

CHAIRMAN OF THE COMMISSION

6.2 (a) Entry of reparation orders responsive to findings authorizing the filing of statements as provided in rule 100 of the General Rules of Practice.

(b) Claims arising under Federal Tort Claims Act, 28 U.S.C. 2671 et seq., except claims covered by section 2672 of that Act.

(c) Approval for publication of all publicly issued documents by a bureau or office, except (1) publications authorized or adopted by the Commission, a division, or a single Commissioner which involve decisions and/or orders resulting from a formal proceeding; (2) decisions and/or orders, informal opinions of any bureau or office, or any initial decision of any hearing officer, and any matters directly related thereto; (3) documents prepared for court cases or for introduction into evidence in formal proceedings; (4) material of a transitory or personal nature, such as speeches, articles, etc.; and (5) publications authorized and adopted by the entire Commission.

(d) Postponement of the effective date of orders in proceedings which are the subject of suits brought in a court to enjoin, suspend, or set aside the decision, order or requirement therein.

(e) Communications referred pursuant to rule 4(e) and Appendix C of the General Rules of Practice.

VICE CHAIRMAN OF THE COMMISSION

6.3 (a) Authority to permit the use of prescribed accounts for carriers and other persons under Parts I, II, III, and IV, which by provisions of their own texts require special authority when such request is certified to the Vice-Chairman by the Accounting and Valuation Board or recalled by the Vice-Chairman.

(b) Authority to permit departures from general rules prescribing uniform systems of accounts for carriers and other persons under parts I, II, III, and IV, and authority to permit departures from the Regulations to Govern the Forms and Recording of Passes for carriers and other persons under parts I and II, when such request is certified to the Vice-Chairman by the Accounting and Valuation Board or recalled by the Vice-Chairman.

(c) Authority to prescribe by order, rates of depreciation to be used by individual carriers by railroad, water, and pipe line, when such request is certified to the Vice-Chairman by the Accounting and Valuation Board or recalled by the Vice-Chairman.

(d) Authority to issue special authorizations permitted by the prescribed regulations governing the destruction of records of carriers subject to parts I, II, III, and IV, when such request is certified to the Vice-Chairman by the Accounting and Valuation Board or recalled by the Vice-Chairman.

(e) With respect to carriers and other persons subject to parts I, II, III, and IV. (1) authority to grant extensions of time for filing annual periodical, and special reports, and (2) authority to grant exemptions to individual carriers from the reporting and accounting requirements.

(f) Requests for (1) access to waybills or photostat copies thereof, and (2) access to statistics reported pursuant to orders of the Commission.

(g) Approval of research projects with consultation with the Commission as a whole from time to time as matters require.

(h) Ex Parte No. 13, with respect to modifications under section 6(3) of posting requirements of section 6(1).

(i) Reduced rates authorizations in cases of calamitous visitation under section 22, including, in connection therewith, relief from section 4 and section 20(11).

(j) Matters coming from the Informal Case Branch of the Bureau of Traffic.

(k) Valuation reports in connection with matters which do not involve the taking of testimony at a public hearing, or the submission of evidence by opposing parties in the form of affidavits when such reports are certified to the Vice-Chairman by the Accounting and Valuation Board or recalled by the Vice-Chairman.

(l) Admission, disbarment, and suspension of practitioners, before the Commission under Rules 7 to 13, inclusive, of the General Rules of Practice.

(m) Authority to institute investigations on the Commission's own motion and to discontinue proceedings instituted under this authority at any time prior to hearing thereon, except that this authority does not include institution of any investigation as comprehended in items 4.3(h), 4.3(t), and 7.3. Nothing herein shall deprive the respective divisions or Chairmen thereof of authority to institute investigations.

(n) Such other duties as may be delegated by the Chairman.

CHAIRMAN OF THE RESPECTIVE DIVISIONS AND CHAIRMAN OF THE COMMISSION

6.4 Merely procedural matters in any formal case or pending matter, including, but not limited to appeals taken from the decision of a hearing officer, pursuant to rule 87 of the General Rules of Practice, and extensions of time for compliance with orders (except in investigations on the Commission's own motion), in any such case or matter which is not the subject of a suit in court, when the subject matter or particular proceeding has been or is assigned or referred to the division: *Provided*, That if the proceeding has been assigned to a Commissioner for administrative handling or preparation of report, such Commissioner shall act on such procedural matters (including extensions of time for compliance with orders); and if the subject matter or particular proceeding has not been assigned or referred to a division or to a Commissioner, the Chairman of the Commission may act on such matters.

CHAIRMAN OF DIVISION THREE

6.5 (a) Applications under section 20a (12) for authority to hold the position of officer or director of more than one corporation.

(b) Matters relating to closing of transactions in accordance with such terms and conditions as may have been prescribed by the Commission or Division 3 under the provisions of part V of the Act, including the execution on behalf of the Commission of contracts and other instruments incident to the closing of such transactions; and matters relating to the administration of loans and other financing guaranteed under part V of the Act, including the giving of consents by the Commission under guaranty agreements and the construction of provisions contained in such agreements and other agreements entered into in connection with such loans or other financing. The Commissioner may certify to Division 3 any matter which in his judgment should be passed on by that Division, or the Commission.

(c) Applications under section 1(18)–(2) for authority to abandon railroad lines, or the operation thereof, to which no opposition is filed and which do not warrant the taking of evidence at oral hearing or by the modified procedure.

6.6 (Deleted)

IF THE PROCEEDING HAS BEEN ASSIGNED TO A COMMISSIONER, THE COMMISSIONER TO WHOM IT IS ASSIGNED; OTHERWISE, TO THE CHAIRMAN OF THE COMMISSION

6.7 Dismissal of complaints upon requests of complainants.

ASSIGNMENTS TO BOARDS

7.1 The following portions of the work, business, and functions of the Commission are assigned to Boards of employees. Such portions relate to proceedings or classes of proceedings that do not involve issues of general transportation importance. The right to apply to the Commission for rehearing, reargument or reconsideration of a decision, order or requirement of an appellate division upon a petition filed by a party to the original order, action or requirement of any such board is restricted under the authority granted by section 17(6) of the Interstate Commerce Act as herein provided.

7.2 (Deleted and republished as item 7.3 (c)).

7.3 *Suspension and Fourth Section Board.* (a) Section 15(7), 216(g), 218(c), 307(g) and (i), and 406(e), relating to the initial disposition (1) by declining to suspend or (2) by entering an order of investigation and suspension of schedules and tariffs, and relating to authority to institute investigations into rates, fares, charges, and practices of carriers under parts I, II, III, and IV, as ancillary to such investigations or such investigation and suspension proceedings; and the authority prior to submission of evidence, to enter orders discontinuing any proceeding when the schedules or tariffs under which the proceeding arose have been cancelled. This delegation of authority shall not include: (1) petitions or requests relating to schedules or tariffs filed in purported compliance with any decision or order of the Commission or a division thereof, or (2) any action in connection with suspensions to be taken during or after formal hearings or investigations. The Board may certify to Division 2 any matter which, in its judgment, should be passed upon by that division or the Commission.

(b) Authority as specified in revised Appendix G to the report in *Pennsylvania R. Co.—Merger—New York Central R. Co.*, 330 ICC 328, and in revised Appendix I to the third supplemental report on reconsideration in 331 ICC 754, decided March 1, 1968.

(c) Section 4, relating to long-and-short haul and aggregate-of-intermediate rates, and relief therefrom, except proceedings made the subject of formal hearing, matters prompted by an order or requirement of the Commission or a division thereof, or matters arising from general increase proceedings. The Board may certify to Division 2 any matter which, in its judgment, should be passed on by that division or the Commission.

7.4 *Motor Carrier Board.* (a) Sections 210 a(a) and 311(a), relating to applications for temporary authority for service by common or contract carriers by motor vehicle or water, respectively, except applications involving broad questions or policy matters in which the decision of the Board would be inconsistent with an order of the Commission or a division, and matters in which substantially the same question is already before the Commission or a division. Matters herein excepted from the Board's jurisdiction shall be certified to Division 1 under item 7.4(f).

(b) Entry of show-cause orders under sections 204(c) and 212(a) relating to the failure of motor carriers to file annual reports.

(c) Determination of uncontested motor carrier, broker, water carrier, and freight forwarder suspension, change, or revocation proceedings under sections 212(a), 312(a), and 410(f) which have not involved the taking of testimony at a public hearing.

(d) Determination of applications which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits, under section 204(a)(4) relating to transfer of brokers' licenses and changes in control of corporations or associations holding brokers' licenses; sections 206(a)(6) and (7) relating to transfer of certificates of registration and rights to operate pending determination of applications for certificates of registration: sections 212(b) and 312 relating to transfer of certificates and permits; and section 410(g) relating to transfer of permits.

(e) Any matter referred to the Board which is assigned for the taking of testimony at a public hearing shall be carried to a conclusion in accordance with the established practices and assignment of work of the Commission.

(f) The Board may certify to Division 1 any matter under (a), (b), and (c) above which in the Board's judgment should be passed on by that Division, or the Commission.

(g) The Board may certify to Division 3 any matter under (d) above which in the Board's judgment should be passed on by that Division, or the Commission.

7.5 (Deleted)

7.6 *Finance Board.* (a) Determination of applications under sections 20a (1) to (11), inclusive, and 214 relating to securities when not connected with an application under section 1(18)–(20) or section 5(2) and which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(b) Any matter referred to the Finance Board which is assigned for the taking of testimony at a public hearing shall be carried to a conclusion in accordance with the established practices and assignment of work of the Commission.

(c) The Finance Board may certify to Division 3 any matter which in the Board's judgment should be passed on by that division, or the Commission, and Division 3 may recall any matter from the Finance Board.

(d) Authority as specified in revised Appendix G to the report in *Pennsylvania R. Co.—Merger—New York Central R. Co.*, 330 ICC 328.

7.7 (Deleted)

7.8 *Operations Boards.* (a) Insurance Board:

(1) Section 211(c) relating to bonds or other security to assure financial responsibility of brokers, section 215 with respect to the furnishing by motor carriers of bonds, insurance, or other security, for the protection of the public, and section 403 (c) and (d) with respect to the furnishing by freight forwarders of bonds, insurance, or other security for the protection of the public, except matters which involved or have involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(2) Section 221 (a) and (c) relating to the designation by motor carriers and brokers of persons upon whom orders and notices may be served and the designation of agents upon whom service of process may be made, except matters which involve or have involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(b) Motor Carrier Leasing Board: Section 204 (e) and (f) and section 204(a)(6) so far as they relate to the lease and interchange of vehicles by motor carriers, and the lease and interchange regulations, (49 CFR Part 1057), except, in each case, matters which involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(c) Railroad Service Board: Proceedings relating to car-service and emergency directions with respect thereto, including suspension of any or all rules, regulations or practices, promulgation of just and reasonable directions without regard to ownership to best promote the service in the interest of the public and the commerce of the people, require joint and common use of terminals, including main line track or tracks for reasonable distances outside such terminals, and promulgate directions for preference or priority in transportation, embargoes, or movement of traffic under permits, except controversies between carriers as to compensation, under provisions of section 1 (15) and

(16) which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(d) Any matter referred to an Operations Board which is assigned for the taking of testimony at a public hearing shall be carried to a conclusion in accordance with the established practices and assignment of work of the Commission.

(e) Any Operations Board may certify to an appropriate division any matter which in the Board's judgment should be passed on by that division, or the Commission, and the appropriate division may recall any matter from an Operations Board.

7.9 *Special Permission Board.* Special Permission or other permissible, waivers of rules regarding schedules of rates, etc., under sections 6(3), 217(c), 218(a), 306(d), 306(e), and 405(d), including authorization for the cancellation of suspended tariffs or schedules, which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits. The Board may certify to Division 2 any matter which, in the Board's judgment, should be passed upon by that division, and Division 2 may recall any matter from the Special Permission Board.

7.10 *Released Rates Board.* Section 20(11) of part I, section 219 of part II and section 413 of part IV, so far as relating to applications for authorization to establish released rates and ratings which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits. The Board may certify to Division 2 any matter which, in the Board's judgment, should be passed upon by that division, and Division 2 may recall any matter from the Released Rates Board.

7.11 *Operating Rights Board.* (a) Determination of applications under sections 204(a)(4a), 206, 207, 208, 209, 210, 211, 303(1), 309, 310, 410 (a) to (f), inclusive, and 410 (h) and (i), relating to the issuance of certificates of public convenience and necessity and permits to motor and water carriers, permits to freight forwarders, certificates of exemption to single-state motor carriers, licenses of brokers, and dual operation matters which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(b) Determination of issues, raised by the filing of protests or otherwise, concerning applications by holders of intrastate authorities for certificates of registration to engage in operations in interstate or foreign commerce under sections 206(a)(6) and 206(a)(7), except those applications under section 206(a)(6) in connection with which petitions for reconsideration of the findings of the State Commission that the public convenience and necessity require applicant's proposed operations in interstate or foreign commerce are seasonably filed, not involving the taking of testimony at a public hearing before the Commission or the submission of evidence to the Commission by opposing parties in the form of affidavits, with the right to designate any such matter for hearing and determination in accordance with the General Rules of Practice where such action is deemed necessary or desirable.

(c) Determination of issues, raised by the filing of protests or otherwise, concerning the interpretation and application of the Deviation Rules, 49 CFR Part 1042, and Gateway Elimination Rules, 49 CFR 1065, or as amended, not involving the taking of testimony at an oral hearing or the submission of evidence by opposing parties in the form of affidavits, with the right to designate any such matter for hearing and determination in accordance with the General Rules of Practice where such action is deemed necessary or desirable.

(d) Any matter referred to the Operating Rights Board which is assigned for the taking of testimony at a public hearing shall be carried to a conclusion in accordance with the established practices and assignment of work of the Commission.

(e) The Operating Rights Board may certify to Division 1, any matter which in the Board's judgment should be passed on by that Division, or the Commission, and Division 1, may recall any matter from the Operating Rights Board.

7.12 *Review Boards Nos. 1, 2, 3, 4, and 5.* (a) Determination of matters in proceedings under the provisions of law set forth in Item 4.2 hereof, in cases or types of cases specified from time to time by the Chairman of Division 1, which have involved the taking of testimony at a public hearing or the submission of evidence by the parties in the form of affidavits. (See App. A for cases or types of cases specified by Chairman of Division 1).

(b) Determination of matters in proceedings under the provisions of law set forth in item 4.3 hereof, in cases or types of cases specified from time to time by the Chairman of Division 2, which have involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(c) Determination of matters in proceedings under the provisions of law set forth in item 4.4 hereof, in cases or types of cases specified from time to time by the Chairman of Division 3, which have involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits. (See App. B for cases or types of cases specified by Chairman of Division 3).

(d) Determination of applications relating to consolidations, mergers, purchases, leases, operating contracts, and acquisitions of control of motor carriers, and non-carrier control of such carriers, including matters of public convenience and necessity under section 207 and consistency with the public interest under section 209 directly related thereto, and issuance of securities and assumption of obligations under section 214 in connection therewith, which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits. The term "motor carriers" as used herein does not include a motor carrier which also is a carrier subject to part I or part III of the Interstate Commerce Act.

(e) Section 210a(b) relating to applications for temporary authority, and continuance of temporary authority under section 9(b) of the Administrative Procedure Act and interpretative special rules (49 CFR 1101.1 to 1101.4).

(f) Determination of applications under section 1 (18) to (20), inclusive, relating to certificates of public convenience and necessity, and issuance of securities and assumption of obligations under section 20a in connection therewith, which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits, except applications under section 1 (18) to (2) for authority to abandon railroad lines, or the operation thereof, to which no opposition is filed and which do not warrant the taking of evidence at oral hearing or by the modified procedure.

(g) Determination of applications under section 5(2) relating to consolidations, mergers, purchases, leases, operating contracts, and acquisitions of control of carriers, by railroad or water, noncarrier control of such carriers, and trackage rights; and applications under section 20a (1) to (11), inclusive, relating to securities of carriers, in connection with the aforesaid applications under section 5(2), which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(h) Section 311(b) relating to applications for temporary authority, and continuance of temporary authority under section 9(b) of the Administrative Procedure Act and interpretative special rules (49 CFR 1101.1 to 1101.4).

(i) In any proceeding under the provisions of law set forth under item 4.2, 4.3, or 4.4 hereof, in which the parties request the withdrawal of exceptions, a Review Board may grant such request and enter an order making the initial decision of the hearing officer (other than a Commissioner) effective.

(j) In any proceeding under the provisions of law set forth under item 4.2, 4.3, or 4.4 hereof, a Review Board may enter an order staying the initial decision of a hearing officer (other than a Commissioner) and may vacate such a stay order in the event it concludes later that the initial decision should be allowed to become effective.

(k) A Review Board may certify matters to the Divisions and the Divisions may recall matters from a Review Board, as follows:

(1) A Review Board may certify to Division 1 and Division 1 may recall from a Review Board any matter in any proceeding under the provisions of law set forth under item 4.2 hereof.

(2) A Review Board may certify to Division 2 and Division 2 may recall from a Review Board any matter in any proceeding under the provisions of law set forth under item 4.3 hereof.

(3) A Review Board may certify to Division 3 and Division 3 may recall from a Review Board any matter in any proceeding under the provisions of law set forth under item 4.4 hereof.

7.13 *Accounting and Valuation Board.* Determination of matters set forth in item 6.3 (a), (b), (c), (d), (e), and (k) insofar as it relates to accounting and to reports which the Bureau of Accounts has the administrative responsibility for handling. The Board may certify to the Vice-Chairman any matter which, in the Board's judgment, should be passed upon by the Vice-Chairman, and the Vice-Chariman may recall any matter from the Accounting and Valuation Board.

7.14 *Tariff Rules Board.* Section 6(6), 217(a), 306(b), and 405(b) so far as relating to the prescription of regulations concerning the form and manner in which tariffs to be filed shall be published, filed and posted, including the institution of rulemaking proceedings for the purpose of prescribing new or changed regulations, except matters which involve or have involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits. The Board may certify to Division 2 any matter which, in the Board's judgment, should be passed upon by that Division, and Division 2 may recall any matter from the Tariff Rules Board.

REHEARINGS AND FURTHER PROCEEDINGS

8.1 For the proper and more convenient dispatch of business and to the ends of justice, the following regulations of the conduct of proceedings are adopted (in addition to those governing the parties, as set out in the Rules of Practice), in respect of rehearings, reconsideration, further hearings, and supplementary proceedings, as the result of the filing of petitions by parties to the decisions, orders, or requirements of divisions of the Commission, individual Commissioners, hearing officers, or boards of employees.

8.2 In respect of all such matters petitions for reconsiderations, reargument, or rehearing of any order, decision, or requirements of an individual Commissioner as herein authorized, or for rehearing, reargument, or reconsideration of a decision, order, or requirement of an individual Commissioner or hearing officer which has become effective as an order of the Commission through absence of stay or exception, shall be considered and disposed of by the division (acting in an appellate capacity and with administrative finality within the meaning of rule 101(g) of the Rules of Practice) to which the general subject is referred, and if the general subject has not been referred to a division, then by the Commission.

8.3 Petitions for rehearing, reconsideration or further hearing in respect of any order, decision, or requirement of a division shall be considered and disposed of by the division (acting as an appellate division) as constituted at the time the petition is circulated for action, provided, that in cases in respect of which it has been determined and announced by the Commission that issues of general transportation importance are involved, such petition shall be considered and disposed of by the Commission.

8.4 Division 1 is hereby designated as an appellate division to which applications or petitions for reconsideration or review, based on an allegation of error on the merits, in whole or in part, of any order, action, or requirement of the Motor Carrier Board under paragraphs (a) and (b) of item 7.4 of the Operations Boards under paragraphs (a) and (b) of item 7.8 of the Operating Rights Board under paragraphs (a), (b), and (c) of item 7.11, and of the Review Boards under paragraph (a) of item 7.12, shall be assigned or referred for disposition (except as otherwise provided in item 7.4(a)), and the decisions or orders of the appellate division shall be administratively final and not subject to review by the Commission.

All other petitions seeking modification of any order, action, or requirement of any such Board, or supplementary authority in the proceeding, shall be determined by the Board, whose order, action, or requirement is sought to be modified.

8.5 Division 2 is hereby designated as an appellate division to which applications or petitions for reconsideration or review of any order, action, or requirement of the Suspension and Fourth Section Board under item 7.3, the Special Permission Board under item 7.9, the Released Rates Board under item 7.10, the Tariff Rules Board under item 7.14, the Review Boards under paragraph (b) of item 7.12, or the Accounting and Valuation Board under item 7.13, shall be assigned or referred for consideration and action. When so acting, it shall have all authority which the Board is authorized to exercise. Decisions or orders of the appellate division shall be administratively final and not subject to review by the Commission. If a petition seeking consideration or review of an order, action, or requirement of a Review Board under paragraph (b) of item 7.12 is not based on an allegation of error on the merits, in whole or in part, such petition, or supplementary authority in such proceeding, shall be determined by that Board.

8.6 Division 3 is hereby designated as an appellate division.

(a) To which applications or petitions for reconsiderations or review, based on an allegation of error on the merits, in whole or in part, of any order, action, or requirement of the Motor Carrier Board under item 7.4(d), the Finance Board under item 7.6(a), and the Review Boards under paragraphs (c), (d), (e), (f), (g), and (h) of item 7.12 shall be assigned or referred for disposition, and the decisions or orders of the appellate division shall not be subject to review by the Commission. All other petitions, seeking modification of any order, action, or requirement of any such Board, or supplementary authority in the proceeding, shall be determined by the Board, whose order, action, or requirement is sought to be modified.

(b) To which applications or petitions for reconsideration or review of any order, action, or requirement of the Railroad Service Board under item 7.8(c) shall be assigned or referred for disposition and the decisions or orders of the appellate division shall be administratively final and not be subject to review by the Commission.

8.7 Announcements of the staying or postponement of decisions, orders, or requirements of divisions, individual Commissioners, or boards when petitions for rehearing, reargument, or reconsideration are filed before such decisions, orders, or requirements have become effective, will be made by the Secretary or under his direction.

REPORTING OF HEADS OF BUREAUS AND OFFICES

9.1 All heads of offices and bureaus shall report to the Chairman. That will be done directly by the Managing Director, General Counsel, and Secretary/Congressional Relations, and by the Director of the Office of Proceedings as to matters assigned to the Chairman. As to matters assigned to divisions 1, 2, 3, the Director and three Deputy Directors of the Office of Proceedings shall report through the Chairman of the respective divisions. All bureau heads shall report through the Vice-Chairman. The Chief Administrative Law Judge shall report through a Commissioner designated by the Chairman.

(REFERENCE NOTE: See minute page 9537 of September 1, 1970, for designation of Commissioner as authorized by the last sentence of item 9.1.)

APPENDIX A—SPECIFICATION OF TYPES OF OPERATING RIGHTS CASES IN RESPECT OF WHICH DETERMINATIONS MAY BE MADE BY THE REVIEW BOARDS

Present: Rupert L. Murphy, Commissioner, to whom the matters which are the subject of this order have beeen assigned for action theron.

It appearing, That item 7.12(a) of the Organization Minutes of the Commission (30 FR 11189, 12559, 13302; 31 FR 242, 2762, 9529, 12693, 13099, 14025; 32 FR 431, 7105, 8000, 8784) delegates to the Review Boards authority to determine matters in proceedings submitted for decision under the provisions of law set forth in item 4.2 thereof in cases or classes of cases specified from time to time by the Chairman of Division 1 of the Commission, which have involved the taking of testimony at a public hearing or submission of evidence by the parties in the form of affidavits:

It is ordered, That the following types and categories of cases, limited to those which have involved the taking of testimony at a public hearing or the submission of evidence by the parties in the form of affidavits, be, and they are hereby, specified in respect of which determinations may be made by the said Review Boards:

Proceedings arising under the provisions of law set forth in item 4.2 of the said Organization Minutes, other than;

Those proceedings in which a Commissioner or a member of the Board has presided at the hearing or has issued an initial decision;

Those proceedings orally argued before Division 1;

Those proceedings which are considered to be the relatively more important cases, including those which appear to involve issues of general transportation importance.

Provided, however, that such specifications, to the extent administered by the Office of Proceedings, shall be applied and construed under the direction and supervision of the Chairman of Division 1.

It is further ordered, That this order vacates and supersedes the order entered herein on January 12, 1965, as of the effective date hereof.

And it is further ordered, That this order shall be effective as of the date hereof.

Dated at Washington, D.C., this 26th day of June 1967.

By the Commission, Commissioner Murphy.

[SEAL] H. NEIL GARSON, *Secretary.*

APPENDIX B—SPECIFICATIONS OF TYPES OF FINANCE CASES IN RESPECT OF WHICH DETERMINATIONS MAY BE MADE BY EMPLOYEE REVIEW BOARDS

Present: Kenneth H. Tuggle, Commissioner, to whom the matters which are the subject of this order have been assigned for action.

It appearing, That item 7.12(c) of the Organization Minutes of the Commission (30 FR 11189, 12559, 13302; 31 FR 242, 4762, 9529, 12693, 13099, 14025; 32 FR 431, 7105, 8000, 8784, 10127, 14627) delegates to the Review Boards authority to determine matters in proceedings under the provisions of law set forth in item 4.4 thereof in cases or types of cases specified from time to time by the Chairman of Division 3 of the Commission, which have involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits:

It is ordered, That the following types of cases, limited to those which have involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits, are specified in respect of which determinations may be made by the said Review Boards:

(a) Proceedings under section 1(18) to (20), inclusive, relating to certificates of public convenience and necessity;

(b) Proceedings under section 5(2) involving (1) acquisition by a carrier by railroad of trackage rights over, or joint ownership in or joint use of, any railroad line or lines owned by any such carrier, (2) transactions where the matters have been designated for handling under the modified procedure, (3) transactions, other than those described in (2), which do not involve any carrier whose operating revenues, in the last calendar year for which data are contained in the record, exceed $1 million, or (4) other transactions which the Chairman of Division 3 finds to involve no issue regarding disposition by Division 3 and designates for disposition by said board;

(c) Proceedings under sections 207 and 209 directly related to proceedings specified in paragraph (b) above;

(d) Proceedings under section 20a (2) to (4) inclusive, and section 214, relating to securities;

(e) Proceedings under sections 212(b), 312, and 410(g), relating to the transfer of certificates and permits;

Provided, however, that the aforesaid specification shall not apply to any case which has been consolidated for the purpose of hearing, or in an administrative law judge's initial decision, with another case not delegated to said boards.

It is further ordered, That this order supersedes the orders entered herein on February 19, 1965, and June 28, 1967, as of the effective date hereof, which prior orders shall nevertheless remain in effect as to disposition

of cases heretofore designated to a Review Board thereunder.

And it is further ordered, That this order shall be effective as of the date hereof.

Dated at Washington, D.C. this 22nd day of December, 1967.

By the Commission, Commissioner Tuggle.

[SEAL] H. NEIL GARSON,
Secretary.

APPENDIX C—LIST OF EMPLOYEE BOARD MEMBERS

OFFICE OF PROCEEDINGS

Review Board No. 1;
Robert P. Carleton, Chm.
Paul R. Joyce
Charles R. Jones, Jr.

Review Board No. 2;
James D. Boyle, Chm.
William E. K. Parker
Henry F. Eaton

Review Board No. 3;
Nolin J. Bilodeau, Chm.
Roger N. Fortier
Rufus S. Hill

Review Board No. 4;
James A. FitzPatrick, Chm.
Donald J. Shaw Jr.
Walter J. Fisher (Temp.)

Review Board No. 5;
Bryson M. Pursell, Chm.
Edward A. Pohost
Daniel G. Taylor

Finance Board;
John J. Mattras, Chm.
William J. McCormick
Gerald Proger

Operating Rights Board;
Henry U. Snavely, Chm.
David S. Berger
Mont L. Burrup

Motor Carrier Board;
Lawrence Blumenkrantz, Chm.
Wallace R. Kelley
Charles D. Dickerson, Jr.
Bruce H. Segal
Joel R. Kaufman

BUREAU OF ACCOUNTS

Accounting Board;
James B. Thomas, Jr., Chm.
Robert E. Hagen
Albert L. Pieschel

Valuation Board;
James B. Thomas, Jr., Chm.
Robert E. Hagen
William T. Bono

BUREAU OF OPERATIONS

Motor Carrier Leasing Board;
Robert D. Pfahler, Chm.
Thomas J. Delaney
Lewis R. Teeple

Insurance Board;
Robert D. Pfahler, Chm.
Leonard J. Schloer
Lewis R. Teeple

Railroad Service Board;
Robert D. Pfahler
Lewis R. Teeple
Thomas J. Byrne

BUREAU OF TRAFFIC

Suspension & 4th Section Board;
Raymond G. Seeds, Chm.
Albert H. Fitzgerald
William Babst, Jr.
Allison D. Holmgren
Clarence S. Halvarson

Special Permission Board;
James A. McCarthy, Chm.
Donald W. Simmons
David R. Manning

Released Rates Board;
Martin E. Foley, Chm.
Alfred S. Killelea
B. Scott Walker

Tariff Rules Board;
Martin E. Foley, Chm.
James A. McCarthy
B. Scott Walker

[FR Doc.74-15769 Filed 7-10-74;8:45 am]

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PART II

FEDERAL ENERGY ADMINISTRATION

■

ADMINISTRATIVE PROCEDURES AND SANCTIONS

Notice of Proposed Rulemaking

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 205, 210]

ADMINISTRATIVE PROCEDURES AND SANCTIONS

Notice of Proposed Rulemaking

The Federal Energy Administration hereby gives notice of a proposal to amend Title 10 of the Code of Federal Regulations by revising Parts 205 and 210, with conforming amendments to Parts 211 and 215 to be made when the revised Part 205 is issued. Part 205 will be retitled "Part 205—Administrative Procedures and Sanctions."

I. INTRODUCTION

On June 27, 1974 the Federal Energy Administration ("FEA"), which was created by the Federal Energy Administration Act of 1974 (Pub. L. 93–275) ("FEAA"), became an operating independent Federal agency and assumed the responsibilities and functions of the Federal Energy Office ("FEO"), which has been abolished (E.O. 11790, 39 FR 23185, June 27,1974). The changeover to FEA does not have a substantive impact on the regulations (10 CFR, Chapter II) issued under the authority of the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159) ("EPAA"). The proposed revision to the procedural regulations is issued under the authority of the EPAA and FEAA and, as described in sections I, B, infra, reflects the specific procedural requirements of the FEAA.

The proposed amendment amounts to a complete restatement of Part 205. The primary purpose of the proposed revision is to make certain technical changes, to clarify existing language and procedures, and to conform the regulations to the requirements of the FEAA. The proposed amendment recognizes the recent creation of the Office of Exceptions and Appeals, which is responsible for all applications for exception, modification or rescission, and appeals of all orders and interpretations issued by the FEA National Office. Procedures also are provided for the Office of Private Grievances and Redress, which was created by section 21 of the FEAA.

The proposed amendment to Part 210 deletes the present Subpart F, titled "Violations, Sanctions, and Judicial Actions," and places those provisions in the proposed Part 205, as Subpart P, without substantial changes.

If implemented, this proposed revision will require conforming changes to Part 211. In general these changes are not substantive and will reflect changes in terms, e.g., "application" in lieu of "petition," and in procedure. There would be a substantive change, however, to Part 211 to reflect the proposal to have the States responsible only for receiving applications under the state set-aside system.

A. *Current procedural regulations.* The proposed revision of Part 205 is not being initiated as a result of any fundamental policy change by the FEA. Rather, it reflects the FEO's experience with the procedural regulations and an appraisal of the way they served the objectives of the substantive regulations. In addition, certain new procedures are needed as a result of changes in the substantive regulations, particularly the recent revision to Part 211 (39 FR 15960, May 6, 1974).

B. *FEAA procedures.* As a result of the FEAA, the FEA operates under certain new procedural requirements. The most significant impact of the FEAA is on rulemaking. Under section 7(i)(1)(A) of the FEAA, the entire Administrative Procedure Act (5 U.S.C. 551, et seq. (1970)) ("APA") is applicable to the FEA. In addition, opportunity for oral presentation must be made available when a proposed rulemaking will have a "substantial impact on the Nation's economy or large numbers of individuals or businesses * * *." (FEAA at section 7(i)(1)(C)). When practicable, this opportunity is to be made available prior to the promulgation of a regulation, but in no event later than 45 days after its issuance. A minimum period of 10 days for written comment is to be provided following the issuance of a proposed regulation, although this requirement may be waived by the FEA when strict compliance with it is found to cause serious harm or injury to the public health, safety, or welfare.

Within 30 days of a request by a person subsequent to the grant or denial of an exception or exemption, the FEAA requires the FEA to provide to the person, and make public, a written opinion stating the applicable facts and legal basis for grant or denial of the exception or exemption. The proposed revision of Part 205 provides that a written statement regarding the grant or denial of an exception or exemption always will be issued to the applicant and will be made available to the public through placement of the order, with appropriate deletions to protect confidential information, in the FEA's public docket room.

The FEAA has made the APA applicable to certain actions by a State Office (A State Office is an office certified by the FEA in accordance with § 211.15.), but makes that optional by providing, in section 7(i)(3), that the Administrator of FEA may provide other procedures. Subpart Q in the proposed revision states the procedures that are to be utilized by State Offices in making assignments under the state set-aside system and in establishing any procedures therefor, in accordance with section 7(i)(3) of the FEAA.

C. *Guidance and notice to the public.* An important objective of the proposed revision is to make the procedural regulations as understandable and easy to use as possible. It is intended that the proposed regulations make clear the information to be supplied by a person making application for, or otherwise requesting, FEA action and to fully state the criteria by which the FEA will evaluate an application or a request and determine what action to take in response. When actions may be taken on the FEA's initiative, the criteria for these are stated also.

Filing requirements of general applicability are stated in § 205.9. However, each subpart of the proposed Part 205 that describes a proceeding, e.g., application for exception in Subpart D, states the information to be supplied by the person seeking such action; the format for the application, request, petition, or complaint; the place at which the documents are to be filed; the criteria upon which the FEA will base its decision; and the right of an aggrieved person to appeal the decision, if appropriate. Most of the subparts pertaining to applications or requests for FEA action include a section requiring timely FEA action with respect to such applications or requests. Failure of the FEA to act within the prescribed time constitutes a denial, which may be appealed in accordance with the administrative appeal procedure.

Despite the few months of its operation, the FEO had an opportunity to evaluate the effectiveness of the current procedures in providing interested persons access to the decision-making process. Although the FEO found that interested persons have been provided such access, more formal requirements for notice were viewed as essential to the FEA's commitment to open proceedings. Therefore, many subparts in the proposed revision provide for broader and more detailed notice and greater third party participation. In addition, certain orders will be filed in the public docket room, and the Office of Exception and Appeals will publish periodically a digest of all orders issued at the conclusion of proceedings for exception, exemption, and appeal.

In commenting on this proposed revision, it is requested that two aspects be addressed specifically:

a. Conformity of the proposed regulations with the APA and the FEAA; and

b. Ambiguities in terms or specific procedures.

II. PROPOSED NEW AND REVISED SUBPARTS TO PART 205

Subpart A—General provisions. The following terms have been added to the "Definitions" section of the subpart: Action, adjustment, appropriate Regional Office or appropriate State Office, conference, duly authorized representative, FPAA, FEA, FEAA, Federal legal holiday, order, proceeding, and ruling. In addition, the definitions of certain other terms have been clarified. Most of these terms are discussed in the context of the subpart in which they appear. However, two new terms of general applicability—"action" and "proceeding"—warrant discussion at this point. "Action" means an order, interpretation, notice of probable violation or ruling issued by, or rulemaking undertaken by the FEA or a State Office; and "proceeding" refers to the process and activity, and any part thereof, instituted by the FEA or a State Office, either on its own initiative or in response to an application, complaint, petition or request submitted by a person, that will lead to an action by the FEA or a State Office.

The proposed revision would make three significant changes to Subpart A:

(1) Provision for the temporary suspension as well as permanent disqualification of persons with respect to an appearance before the FEA;

(2) Revision of the section pertaining to the issuance of subpoenas and the establishment of procedures for quashing a subpoena; and

(3) Substitution of "General filing requirements" for the current § 205.9 *Request for determination.*

The present § 205.9, *Request for a Determination,* has been the source of some confusion. Although it appears to create a separate proceeding, and numerous persons have so interpreted it, it was intended to state the additional facts and documents that a person making a request or application under any subpart of this part would have to provide in addition to the specific requirements of that subpart. The "Request for determination" section is deleted by the proposed revision and the "General filing requirements" section is substituted. This new section contains those requirements that are generally applicable to every document that is to be filed with the FEA. Included is a procedure for facilitating compliance with the "Freedom of Information Act" (5 U.S.C. 552 (1970)) and recognition of the protection to certain information provided by 18 U.S.C. 1905 (1970).

The proposed revision amends each individual subpart to state the specific filing requirements for the application, complaint, petition or request that is the subject of the subpart which are imposed in addition to the general requirements of revised § 205.9. As the inclusion of these filing requirements is applicable to most of the proceedings established by this part, they are not described in the context of the changes proposed for each subpart.

Paragraph (e) of the current § 205.9, which states FEO's position regarding expeditious consideration, will not be restated in the proposed revision. It should be clear that the FEA will process all filings as expeditiously as possible, and, further, that documents filed will be evaluated on the basis of the facts presented therein. No assurance can be given of any consideration in advance of the normal processing.

Subpart B—Adjustment; Subpart C—Assignment. Certain questions have arisen with regard to the difference between adjustments and assignments, and the procedures to be followed in making application for each. To clarify the differences between the two, the proposed revision places each in a separate subpart.

The proposed Subpart B (Adjustment) reflects the recent amendments to Part 211, which made many adjustments to base period volume automatic between a supplier and a purchaser. Therefore, FEA involvement is required only when the application is filed by a wholesale purchaser or end-user whose allocation level is a percentage of base period use and is based upon changed circumstances or when § 211.13 requires validation of certain purchaser-initiated adjustments that are disputed by the supplier.

On April 11, 1974, the FEO issued guidelines for the issuance of assignment orders. Several of the guidelines that relate to procedures are incorporated in the proposed Subpart C (Assignment). The FEA must make verbal contact with a potential supplier several days, if feasible, in advance of issuing the assignment order, to ensure the accuracy of the facts upon which the decision to choose a particular supplier is based and to determine if the assignment order will cause significant disruption in the potential supplier's operations. Subpart C also reflects the recent amendment to Part 211.

Both proposed Subparts B and C have eliminated the role played by State Offices, except in the state set-aside program.

Subpart D—Exception. "Exception" would be redefined to mean the waiver or modification of the requirements of a certain section or paragraph of the regulations, or a ruling or other generally applicable FEA requirement as applied to a specific set of facts. Applications for exception may be filed by persons experiencing serious hardship or gross inequity. Under the proposed revision, all applications for an exception are to be submitted to the FEA Office of Exceptions and Appeals, except applications for exception from the provisions of Part 212 that relate to the retail sale of motor gasoline, heating oil, diesel fuel and propane, which are filed with the appropriate Regional Office.

The subpart incorporates the first step of the internal review of an application for exception, which is to determine if there is not another proceeding better suited to resolve the issues raised by the application, by providing that an exception will be available only when the appropriate relief cannot be obtained by adjustment, assignment or interpretation.

Subpart E—Exemption. "Exemption" has been redefined to mean a release from the obligation to comply with any part or parts, or any subpart thereof, of this chapter. The subpart has been revised to clearly distinguish an exemption from an exception and to provide that an application for an exemption that is not denied will be considered only in a rulemaking proceeding. All applications for an exemption are to be filed with the Office of Private Grievances and Redress and will be treated as applications for rulemakings. Unless it is determined that the application presents issues of sufficient national impact, economic or otherwise, to warrant a rulemaking, the application will be denied. Furthermore, the person making application must be seeking relief from the obligations imposed by a substantial portion of the FEA regulations, i.e., the release from the requirements of an entire subpart is the minimum for which an exemption will be considered.

The criteria stated in the proposed subpart represent a judgment by FEA that most applications for exemption are more appropriately treated in other proceedings, particularly as an application for an exception. However, if a bona fide exemption is sought, by definition it will be of sufficient importance and interest that it should be evaluated in a rulemaking proceeding. Orders denying an application for exemption will be on file in the public docket room. If an application is not denied that decision will be made public by publication of a notice of proposed rulemaking in the FEDERAL REGISTER.

This subpart does not provide the procedure for exemption of products stated in section 4(g) of the EPAA.

Subpart F—Interpretation. The proposed revision states that all formal interpretations of the FEA regulations shall be in writing and shall be issued only by the FEA General Counsel or a Regional Counsel, and only upon submission of a written request for an interpretation to the General Counsel or an appropriate Regional Counsel.

This modification of the current subpart is proposed to eliminate the confusion that may exist regarding which office in FEA has the ultimate responsibility for the issuance of formal interpretations of the regulations. While it is true that in the day-to-day operations of FEA, many of its personnel make verbal or written "interpretations" of the regulations, such interpretations can be regarded only as advice.

The precedential value of an interpretation is narrowly restricted: Only the person making the request and other persons directly involved in the same act or transaction who are served with copies of the interpretation by FEA may rely upon an interpretation, and it may be relied upon only to the extent that the information upon which the interpretation is based is complete and corresponds to the actual facts of the situation. It should be noted that an interpretation is subject to modification or rescission at any time, although such action will not subject a person who relied on the interpretation to the sanctions provided by this chapter or the EPAA. If the FEA General Counsel receives requests for interpretation that pertain to similar factual situations and sections of the regulations, or if a request for interpretation raises questions likely to be of general interest, a ruling, rather than an interpretation, may be issued in accordance with Subpart K.

Subpart G—Other proceedings. This proposed subpart has been added primarily to provide general procedures for two proceedings added by the recent revision to Part 211—allocation changes affecting retail sales outlets and multiple allocation fractions. However, the subpart is drafted to encompass other substantive proceedings that might be added to the FEA regulations from time to time and that may not warrant the addition of a new subpart or other amendment to Part 205.

This subpart does not provide procedures for filing petitions with the Office of Private Grievances and Redress.

Subpart H—Appeal. Appeals of orders or interpretations issued by the FEA National Office are to be filed with the FEA Office of Exceptions and Appeals. The Regional Offices will consider the appeal of any order issued by one of them, although present FEA internal procedures provide that the Office of Exceptions and Appeals will assume primary responsibility for those appeals that present issues of national importance or that might have significant impact on the overall regulatory scheme. The regulations governing the appeal of an order issued by a State Office are stated separately in Subpart O.

Procedures have been provided to insure that persons aggrieved by an FEA action and those who participated in the prior proceeding are put on notice of the appeal from it. In addition, the Office of Exceptions and Appeals periodically will publish a summary of all orders issued at the conclusion of appellate proceedings. Copies of all such orders will be available for public inspection and copying in the public docket room.

An appeal not filed in a timely manner, unless good cause is shown, or that is defective on its face for failure (i) to state that the FEA action was erroneous in fact or law, or was arbitrary or capricious, and (ii) to present facts and legal argument in support thereof, may be denied summarily. However, the regulations provide an opportunity for the appellant to correct any of those deficiencies by amendment.

The FEA may deny an appeal if the appellant does not establish that:

(a) He is a person aggrieved by the order or interpretation that is the subject of the appeal;

(b) FEA's action was erroneous in fact or in law; or

(c) The FEA action was arbitrary or capricious.

The proposed regulation deletes from the current appeals subpart the provision for requesting a conference or hearing, and the provision for a stay pending appeal. The hearing section is placed in Subpart M; and the procedure for seeking a stay pending appeal or in connection with an application for exception is in Subpart I.

Subpart I—Stay. The proposed Subpart I provides the procedure for an application for stay of an FEA action and states the criteria by which the application will be evaluated. It is anticipated a stay will be available only:

(a) Incident to an appeal from an order of the FEA;

(b) Incident to a request for an exception from the application of the regulations; or

(c) Pending judicial review.

A stay will only be granted in exceptional circumstances. In the absence of a stay, the applicant must comply with all orders and regulations. There is no administrative appeal of the grant or denial of a stay.

Subpart J—Modification or rescission. This proposed subpart is a revision of the present Subpart G—Modification of Orders. Its location in the proposed revision of Part 205 is a reflection of its post-appellate nature. The procedure provided by the current Subpart G is in my respects indistinguishable from an appeal. As the regulations now provide, it is conceivable that a person could simultaneously seek an appeal from an order under Subpart H and modification of that same order under Subpart G. The proposed revision narrows the situations in which there can be application for modification of an order or interpretation by imposing two criteria that must be satisfied by an applicant:

(a) There must have been a significant change in the underlying circumstances from those existing or known at the time the matter initially was considered; and

(b) The 30-day period within which a person may appeal an FEA action must have lapsed or, if an appeal has been filed, a final order must have been issued.

The proposed revision states the criteria by which the FEA will determine if the significantly changed circumstances justify the modification of the FEA order or interpretation. With respect to any newly discovered facts that constitute the significantly changed circumstances, the applicant must demonstrate why such facts were not or could not have been presented in the prior proceeding.

Subpart K—Rulings. The subpart is restated in the proposed revision to clarify the criteria for the issuance of a ruling and to make clear its precedential value.

A ruling is issued by the FEA General Counsel and is the FEA's response to a situation covered by the regulations that is of interest to or has an impact on a substantial number of persons. It is anticipated that one impetus for a ruling will be problems suggested by an unusual number of requests for interpretation that present similar factual situations or concern a particular section of the regulations.

A ruling is published in the FEDERAL REGISTER and is an interpretation of the regulations of general applicability that persons are entitled to rely upon until the ruling is modified or the regulations are amended.

The proposed revision states that any person may submit comments on a ruling at any time. Such comments are to be submitted to the FEA General Council.

Subpart L—Rulemaking. The proposed subpart revises the present Subpart K and makes it clear that rulemaking by the FEA is to conform to the requirements of the APA and the FEAA. The subpart states the procedural requirements that must be satisfied in filing comments in connection with a rulemaking or otherwise, and in making a request that a rulemaking proceeding be instituted.

The FEAA (section 7(i) (1) (A)) makes the APA applicable to any rulemaking undertaken by the FEA. In addition to the procedural requirements of the APA, the FEAA imposes several other requirements:

(a) Notice of any rulemaking shall be by publication in the FEDERAL REGISTER;

(b) The period of comment following the publication of such notice shall be a minimum of ten days, unless there is a waiver for the reasons specified in the FEAA; and

(c) If the proposed regulation "is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data and arguments shall be afforded." The opportunity for oral presentation, to the maximum extent feasible, will be provided before issuance of the regulation, but in any event, no later than 45 days after the issuance of the regulation.

The FEAA also requires that any proposed regulation be submitted for review to the Administrator of the Environmental Protection Agency if the proposed regulation affects the quality of the environment. The review is in advance of public notice of the proposed rulemaking, and there shall be a period of not less than five days within which the Administrator may comment thereon. Any written comment by the Administrator must be published as part of the notice of rulemaking.

Prior to the promulgation of regulations of the FEAA that substantially affect the authority of State governments, the FFA must provide a reasonable period for such State governments to make written comments thereon.

Subpart M—Conferences, Hearings and Public Hearings. The proposed revision removes the hearings section from the present appeals subpart and expands it into Subpart M, which sets forth the procedures by which a person may request the convening of a conference or hearing (each also may be convened on the initiative of the FEA), and states that each will be convened in the discretion of the FEA. A conference may be requested in connection with any proceeding, while a hearing will be convened only in conjunction with an application for an exception or an appeal.

As the definition in the proposed Subpart A indicates, a conference is an informal meeting between a person directly affected by an FEA action, or proposed action, and officials of the FEA. It is anticipated that a conference would be primarily for the purpose of insuring that all positions are fully understood. A hearing will be held upon notice to all interested and aggrieved persons and is more structured than a conference. In the discretion of the FEA official conducting the hearing, there may be oral presentation and relevant information may be received.

A public hearing shall be convened incident to a rulemaking when the proposed regulation is likely to have a substantial impact on the national economy or on large numbers of individuals or businesses, as is required by the FEAA, and may be convened when the FEA in its discretion determines that a public hearing would materially advance its consideration of the issues raised in a rulemaking or other proceeding. In each

instance, the public hearing would be held in accordance with the requirements of the APA.

Unless specifically required by the FEAA, neither a conference, hearing nor a public hearing will be convened unless it is reasonably anticipated that such will materially advance the proceeding.

Subpart N—Complaints. Under the current regulations, there is no formal procedure by which a person can file a complaint regarding alleged violations of FEA's regulations, orders, interpretations, or rulings. The proposed subpart would state the procedures by which a complaint can be filed with the FEA National Office or a Regional Office and states the information to be included in any complaint. Complaints will be kept confidential under the investigatory file exception to public disclosure (5 U.S.C. 552(b)(7)). Verbal complaints will be accepted, but written verification of the information provided thereby may be requested by the FEA.

Subpart O—Notice of Probable Violation; Remedial Orders. This proposed subpart establishes the procedures and criteria for the issuance of a notice of probable violation, a remedial order, and a remedial order for immediate compliance. In contrast to the current Subpart E, the revised subpart provides that a notice of probable violation will be used to initiate all proceedings, unless it is found that there is a strong probability that a violation has occurred, is continuing or is about to occur, that irreparable harm will occur unless the violation is remedied immediately, and, further, that the public interest requires the avoidance of such irreparable harm through immediate compliance and waiver of the procedures otherwise afforded in the subpart. If the latter conditions are met, a remedial order for immediate compliance may be issued.

In all other circumstances, a notice of probable violation will be issued if the FEA has reason to believe that a violation has occurred, is occurring or is about to occur. The person to whom a notice of probable violation has been issued has 20 days in which to respond to the notice. Upon consideration of the response, the FEA may issue a remedial order. The proposed subpart provides that a remedial order or a remedial order for immediate compliance may require the person to whom it is directed to roll back prices, to refund payments received by that person that are in excess of the amount permitted under Part 212, or to undertake such other actions as the FEA determines are necessary to eliminate or to compensate for the effects of a violation.

There may be an appeal of a remedial order if filed within 10 days from service or actual notice of the order. No appeal may be taken from a notice of probable violation.

Subpart P—Violations, Sanctions, and Judicial Actions. In the proposed revision, Subpart F of Part 210 will be deleted from that part and inserted without material revision in Part 205 as Subpart P.

Subpart Q—Application for State Set-Aside. This proposed subpart is substantially changed. Under Subpart I of the current procedural regulations and Part 211, States have the responsibility for evaluating applications for assignment by new end-users and applications for adjustment to an end-user's base period use based on changed circumstance, as well as assignments under the state set-aside system. The role of the States with respect to applications for other than an assignment under the state set-aside system currently is limited to denying such applications and recommending to the FEA any that a State Office determines should be granted. This limited role has not been entirely acceptable to the States, and, as a result of initial discussions with representatives of State governments, FEA has decided to propose that the State Offices be responsible only for assignments under the state set-aside system in order to elicit further comments from all States on this matter. During the comment period, FEA will be working closely with representatives of the States to determine the appropriate function that should be assigned to the States. The proposed subpart prescribes the procedures for receiving and acting upon such applications.

The FEAA provides that if a State Office adopts any regulations pertaining to the functions it performs, the process of adopting the regulations either must conform to the requirements of the APA or to procedures set by the FEA. This subpart states the procedures that must be utilized by a State Office in adopting any regulations applicable to the state set-aside system. In particular, the States must insure that there is the widest possible notice of a proposal to adopt regulations and provide an opportunity for interested persons to participate in the proceeding.

Subpart R—Office of Private Grievance and Redress. The establishment of the Office of Private Grievances and Redress is required by the FEAA. Its responsibility is specifically stated in the Act: "Any person adversely affected by any order, rule, or regulation issued by the Administrator [of FEA] in carrying out the functions assigned to him under this Act, may petition the Administrator for special redress, relief, or other extraordinary assistance, apart from, or in addition to, any right or privilege to seek redress of grievances provided in section 7 [of the FEAA]," (FEAA at 21(b)). This proposed subpart states the procedures for the Office.

The Office will receive petitions only if the action sought is not otherwise provided in Part 205, although the Office also will receive applications for exemption. Such petitions would include, e.g., a petition that asserts that the FEA or a State Office is not performing in accordance with the requirements of this chapter, the FEAA, or the EPAA. The Office is primarily intended to provide redress in circumstances that, because of their uniqueness, are not otherwise encompassed by this part. If a petition requests action that already is available, the Office will refer it to the appropriate FEA Office. The Office may not function as a further appellate level, above the Office of Exceptions and Appeals.

Interested persons are invited to participate in the rulemaking by submitting written data, views, or arguments with respect to the proposed regulations stated in this notice to the Executive Secretariat, Box AP, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on the documents submitted to the FEA with the designation "Proposed Revision to Part 205." Fifteen copies of each document should be submitted. All comments filed by July 29, 1974 and all other relevant information will be considered by the FEA before final action is taken on the proposed regulations.

(Emergency Petroleum Allocation Act, 1973, Pub. L. 93-159; Federal Energy Administration Act 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, it is proposed to revise Part 205 and to amend Part 210, Chapter II, Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., July 5, 1974.

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Federal Energy Administration.

1. Part 205 of this chapter is revised to read as follows:

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

Subpart A—General Provisions

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205.2 Definitions.
205.3 Appearance before the FEA or a State Office.
205.4 Filing of documents.
205.5 Computation of time.
205.6 Extension of time.
205.7 Service.
205.8 Subpoenas; witness fees.
295.9 General filing requirements.
205.10 Effective date of orders.
205.11 Order of precedence.
205.12 Addresses for filing documents with FEA.
205.13 Where to file.
205.14 Ratification of prior directives, orders and actions.
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Subpart B—Adjustment

205.20 Purpose and scope.
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205.22 Where to file.
205.23 Notice.
205.24 Contents.
205.25 FEA evaluation.
205.26 Decision and order.
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205.28 Appeal.

Subpart C—Assignment

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Subpart D—Exception

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Subpart E—Exemption

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Subpart F—Interpretation

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Subpart G—Other Proceedings

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Subpart H—Appeal

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Subpart I—Stay

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Subpart J—Modification or Rescission

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Subpart K—Rulings

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Subpart L—Rulemaking

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Subpart M—Conferences, Hearings and Public Hearings

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Subpart P—Violations, Sanctions and Judicial Actions

205.200 Violations.
205.201 Sanctions.
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Subpart Q—Application for State Set-Aside

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205.211 Who may apply.
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Subpart R—Office of Private Grievances and Redress

205.230 Purpose and scope.
205.231 Who may file.
205.232 What to file.
205.233 Where to file.
205.234 Notice.
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205.237 Decision and response.

AUTHORITY: Emergency Petroleum Allocation Act, 1973, Pub. L. 93–159; Federal Administration Act, 1974, Pub. L. 93–275; E.O. 11790, 39 FR 23185.

Subpart A—General Provisions

§ 205.1 Purpose and scope.

(a) This part establishes the procedures to be utilized and identifies the sanctions that are available in proceedings before the Federal Energy Administration and State Offices, in accordance with Parts 210, 211, 212, and 215 of this chapter.

(b) This subpart defines certain terms and establishes procedures that are applicable to each proceeding described in this part.

§ 205.2 Definitions.

The definitions set forth in other parts of this chapter shall apply to this part, unless otherwise provided. In addition, as used in this part, the term:

"Action" means an order, interpretation, notice of probable violation or ruling issued, or a rulemaking undertaken by the FEA or, as appropriate, by a State Office.

"Adjustment" means a modification of the base period volume or other measure of allocation entitlement in accordance with Part 211.

"Aggrieved", for purposes of administrative proceedings, describes and means a person with an interest sought to be protected under the FEAA or FPAA who is adversely affected by an order or interpretation issued by the FEA or a State Office.

"Appropriate Regional Office or appropriate State Office" means the office located in the State or FEA region in which the product will be sold to the ultimate consumer.

"Assignment" means an action designating that an authorized purchaser be supplied at a specified entitlement level by a specified supplied.

"Conference" means an informal meeting, incident to any proceeding, between FEA or State officials and any person aggrieved by that proceeding.

"Duly authorized representative" means a person who has been designated to appear before the FEA or a State Office in connection with a proceeding on behalf of a person interested in or aggrieved by that proceeding. Such appearance may consist of the submission of applications, petitions, requests, statements, memoranda of law, other documents, or of a personal appearance, verbal communication, or any other participation in the proceeding.

"EPAA" means the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159).

"Exception" means the waiver or modification of the requirements of a regulation, ruling or generally applicable requirement under a specific set of facts.

"Exemption" means the release from the obligation to comply with any part or parts, or any subpart thereof, of this chapter.

"FEA" means the Federal Energy Administration, created by the Federal Energy Administration Act (Pub. L. 93–275), and includes the FEA National Office and Regional Offices.

"FEAA" means the Federal Energy Administration Act of 1974 (Pub. L. 93–275).

"Federal legal holiday" means New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, and any other day appointed as a national holiday by the President or the Congress of the United States.

"Interpretation" means a written statement issued by the FEA General Counsel or his delegate, in response to a written request, that applies the regulations, rulings, and other precedents previously issued by the FEA to the particular facts of a prospective or completed act or transaction.

"Notice of probable violation" means a written statement issued to a person by the FEA that states one or more alleged violations of the provisions of this chapter or any order issued pursuant thereto.

"Order" means a directive issued by the FEA or a State Office. It may be issued in response to an application, petition or request for FEA or in response to an appeal from an order, or it may be a remedial order or other directive issued by the FEA or a State Office on its own initiative. A notice of probable violation is not an order.

"Person" means any individual, firm, estate, trust, sole proprietorship, partnership, association, company, joint-venture, corporation, governmental unit or instrumentality thereof, or a charitable, educational or other institution, and includes any officer, director, owner or duly authorized representative thereof.

"Proceeding" means the process and activity, and any part thereof, instituted by the FEA or a State Office, either on its own initiative or in response to an application, complaint, petition or request submitted by a person, that may lead to an action by the FEA or a State Office.

"Remedial order" means a directive issued by the FEA requiring a person to cease a violation or to eliminate or to compensate for the effects of a violation, or both.

"Ruling" means an official interpretative statement of general applicability issued by the FEA General Counsel and published in the FEDERAL REGISTER that applies the FEA regulations to a specific set of circumstances.

"State Office" means a State Office of Petroleum Allocation certified by the FEA upon application pursuant to Part 211 of this chapter.

Throughout this part the use of a word or term in the singular shall include the plural and the use of the male gender shall include the female gender.

§ 205.3 Appearance before the FEA or a State Office.

(a) A person may make an appearance and participate in any proceeding described in this part on his own behalf or by a duly authorized representative. The designation of such representative must be in writing and signed by the person authorized to so designate. Such designation shall state the name and telephone number of the duly authorized representative and the address at which such representative can receive any notice or other written communication required to be served or otherwise transmitted. If any application, appeal, petition, request or complaint is filed on behalf of a person by a duly authorized representative, such document shall be accompanied by a designation of the representative.

(b) *Suspension and disqualification.* The FEA or a State Office may deny, temporarily or permanently, the privilege of participating in proceedings, including oral presentation, to any individual who is found by the FEA:

(1) To have made false or misleading statements, either verbally or in writing;

(2) To have filed false or materially altered documents, affidavits or other writings;

(3) To have engaged in unethical or improper conduct;

(4) To lack either the requisite qualifications or specific authority to represent the person seeking an FEA or State Office action; or

(5) To have engaged in or to be engaged in contumacious conduct that substantially disrupts a proceeding.

§ 205.4 Filing of documents.

(a) A document, including, but not limited to, an application, appeal, request, complaint, petition and other documents submitted in connection therewith, filed with the FEA or a State Office under this chapter is considered to be filed when it has been received by the FEA National Office, a Regional Office or a State Office. Documents transmitted to the FEA must be addressed as required by § 205.12. All documents and exhibits submitted become part of an FEA or a State Office file and will not be returned.

(b) Notwithstanding the provisions of paragraph (a) of this section, an appeal, a reply to a notice of probable violation, or a comment submitted in connection with any proceeding transmitted by registered or certified mail and addressed to the appropriate office is considered to be filed upon mailing.

(c) Hand-delivered documents to be filed with the Office of Exceptions and Appeals shall be submitted to that office at 2000 M Street NW., Washington, D.C. All other hand-delivered documents to be filed with the FEA National Office must be submitted to the Executive Secretariat at 12th and Pennsylvania Avenue NW., Washington, D.C. Hand-delivered documents to be filed with a Regional Office shall be submitted to the Office of the Regional Administrator. Hand-delivered documents to be filed with a State Office shall be submitted to the office of the chief executive officer of such office.

(d) Documents received after regular business hours are deemed filed on the next regular business day. Regular business hours for the FEA National Office are 8:00 a.m. to 4:30 p.m. Regular business hours are deemed filed on the a State Office shall be established independently by each.

§ 205.5 Computation of time.

(a) *Days.* (1) Except as provided in paragraph (b) of this section, in computing any period of time prescribed or allowed by these regulations or by an order of the FEA or a State Office, the day of the act, event, or default from which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or Federal legal holiday, in which event the period runs until the end of the next day that is neither a Saturday, Sunday, nor a Federal legal holiday.

(2) Saturdays, Sundays or intervening Federal legal holidays shall be excluded from the computation of time when the period of time allowed or prescribed is 7 days or less.

(b) *Hours.* If the period of time prescribed in an order issued by the FEA or a State Office is stated in hours rather than days, the period of time shall begin to run upon actual notice of such order, whether by verbal or written communication, to the person directly affected, and shall run without interruption, unless otherwise provided in the order, or unless the order is stayed, modified, suspended or rescinded.

(c) *Additional time after service by mail.* Whenever a person is required to perform an act, to cease and desist therefrom, or to initiate a proceeding under this part within a prescribed period of time after issuance to such person of an order, notice, interpretation or other document and the order, notice, interpretation or other document is served by mail, 3 days shall be added to the prescribed period.

§ 205.6 Extension of time.

When a document is required to be filed within a prescribed time, an extension of time to file may be granted by the office with which the document is required to be filed upon good cause shown.

§ 205.7 Service.

(a) All orders, notices, interpretations or other documents required to be served under this part shall be served personally or by registered or certified mail or by regular United States mail (only when service is effected by the FEA), except as otherwise provided.

(b) Service upon a person's duly authorized representative shall constitute service upon that person.

(c) Service by registered or certified mail is complete upon mailing. Official United States Postal Service receipts from such registered or certified mailing shall constitute prima facie evidence of service.

§ 205.8 Subpoenas; witness fees.

(a) The Administrator of the FEA, his duly authorized agent, the FEA General Counsel, or the agency official designated to conduct a hearing or public hearing convened in accordance with Subpart M of this part may sign and issue subpoenas either on his own initiative or upon the request of other persons participating in a proceeding.

(b) A subpoena may require the attendance of a witness, or the production of documentary or other tangible evidence in the possession of or under the control of the person served, or both.

(c) A subpoena may be served personally by any person who is not an interested person and is not less than 18 years of age, or by certified or registered mail.

(d) Service of a subpoena upon the person named therein shall be made by delivering a copy of the subpoena to such person and by tendering the fees for one day's attendance and mileage as specified by paragraph (f) of this section. When a subpoena is issued at the instance of any officer or agency of the United States, fees and mileage need not be tendered at the time of service. Delivery of a copy of a subpoena and tender of the fees to a natural person may be made by handing them to the person; or leaving them at his office with the person in charge thereof; or leaving them at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein;

or by mailing them by registered or certified mail to him at his last known address; or by any method whereby actual notice is given to him and the fees are made available prior to the return date. When the person to be served is not a natural person, delivery of a copy of the subpoena and tender of the fees may be effected by handing them to a registered agent for service, or to any officer, director, or agent in charge of any office of such person, or by mailing them by registered or certified mail to such representative at his last known address or by any method whereby actual notice is given to such representative and the fees are made available prior to the return date.

(e) The original subpoena bearing a certificate of service shall be filed with the FEA office with the responsibility for the proceeding in connection with which the subpoena was issued.

(f) A witness subpoenaed by the FEA shall be paid the same fees and mileage as would be paid to a witness in a proceeding in the district courts of the United States. The witness fees and mileage shall be paid by the person at whose instance the subpoena was issued.

(g) Notwithstanding the provisions of paragraph (f) of this section, and upon request, the witness fees and mileage shall be paid by the FEA when it is shown that:

(1) The presence of the subpoenaed witness will materially advance the proceeding; and

(2) The person at whose instance the subpoena was issued would suffer a serious hardship if required to pay the witness fees and mileage. The designated FEA official issuing the subpoena shall make the determination required by this paragraph.

(h)(1) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 10 days after the date of service of such subpoena, apply to the designated FEA official who issued the subpoena, or if he is unavailable, to the Administrator, to quash or modify such subpoena. The application shall contain a brief statement of the reasons relied upon in support of the action sought therein.

(2) The Administrator or such other designated FEA official specified in paragraph (h)(1) of this section may (i) deny the application, (ii) quash or modify the subpoena, or (iii) condition denial of the application to quash or modify the subpoena upon the satisfaction of certain just and reasonable requirements. Such denial may be summary.

(i) If there is a refusal to obey a subpoena served upon any person under the provisions of this part, the FEA may request the Attorney General to seek the aid of the District Court of the United States for the district in which such person is found to compel such person, after notice, to appear and give testimony, or to produce the subpoenaed documents, or both.

§ 205.9 General filing requirements.

(a) *Purpose and scope.* The provisions of this section shall apply to all documents required or permitted to be filed with the FEA or with a State Office.

(b) *Signing.* All applications, petitions, requests, appeals, comments or any other documents that are required to be signed, shall be signed by the person filing the document or a duly authorized representative.

(c) *Labeling.* An application, petition, or other request for action by the FEA or a State Office shall be clearly labeled according to the nature of the action involved (e.g., "Application for Assignment") both on the document and on the outside of the envelope in which the document is transmitted.

(d) *Obligation to supply information.* A person who files an application, petition, complaint, appeal or other request for action is under a continuing obligation during the proceeding to provide the FEA or a State Office with any new or newly discovered information that is relevant to that proceeding. Such information includes, but is not limited to, information regarding any other application, petition, complaint, appeal or request for action that is subsequently filed by that person with any FEA office or State Office.

(e) *The same or related matters.* A person who files an application, petition, complaint, appeal or other request for action by the FEA or a State Office shall state whether, to the best knowledge of that person, the same or related issue, act or transaction has been or presently is being considered or investigated by any FEA office, other Federal agency, department or instrumentality; or by a State Office, a state or municipal agency or court; or by any law enforcement agency; including, but not limited to, a consideration or investigation in connection with the proceeding described in this part. In addition, the person shall state whether contact has been made by the person or one acting on his behalf with any person who is employed by the FEA or any State Office with regard to the same issue, act or transaction or a related issue, act or transaction arising out of the same factual situations; the name of the person contacted; whether the contact was verbal or in writing; the nature and substance of the contact; and the date or dates of the contact.

(f) *Request for confidential treatment.* If any person filing a document with the FEA or a State Office claims that some or all the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552 (1970)), is information referred to in 18 U.S.C. 1905 (1970), or is otherwise exempt by law from public disclosure, and if such person requests the FEA or a State Office not to disclose such information, such person shall file together with the document a second copy of the document from which has been deleted the information for which such person wishes to claim confidential treatment. The person shall indicate in the original document that it is confidential or contains confidential information and may file a statement specifying the justification for non-disclosure of the information for which confidential treatment is claimed. If the person states that the information comes within the exception in 5 U.S.C. 552(b)(4) for confidential commercial information and trade secrets, such person shall include a statement specifying why release of the information will result in competitive injury to that person. If the person filing a document does not submit a second copy of the document with the confidential information deleted, the FEA or a State Office may assume that there is no objection to public disclosure of the document in its entirety. The FEA or a State Office retains the right to make its own determination with regard to any claim of confidentiality.

§ 205.10 Effective date of orders.

Any order issued by the FEA or a State Office under this chapter is effective as against all persons having actual notice thereof upon issuance, in accordance with its terms, unless and until it is stayed, modified, suspended, or rescinded. An order is deemed to be issued on the date, as specified in the order, on which it is signed by an authorized representative of FEA or a State Office, unless the order provides otherwise.

§ 205.11 Order of precedence.

(a) If there is any conflict or inconsistency between the provisions of this part and any other provision of this chapter, the provisions of this part shall control with respect to procedure.

(b) Notwithstanding paragraph (a) of this section, Subpart I of Part 212 shall control with respect to prenotification and reporting and Subpart J of Part 212 shall control with respect to accounting and financial reporting requirements.

§ 205.12 Addresses for filing documents with FEA.

(a) All petitions and appeals to the FEA National Office should be addressed to P.O. Box 2893, Washington, D.C. 20013. Reports, notifications, and other correspondence intended for the National Office, FEA, should be addressed to the following Post Office Boxes, as appropriate:

Crude Oil, P.O. Box 19407, Washington, D.C. 20036.
Propane & Butane, P.O. Box 19500, Washington, D.C. 20036.
Petrochemical Feedstocks, P.O. Box 2885, Washington, D.C. 20013.
Bunker Fuel, P.O. Box 2886, Washington, D.C. 20013.
Electrical Utilities, P.O. Box 2887, Washington, D.C. 20013.
Aviation Fuels, P.O. Box 2888, Washington, D.C. 20013.
Other Products, P.O. Box 2889, Washington, D.C. 20013.
General Counsel, P.O. Box 2894, Washington, D.C. 20013.

(b) All reports, applications, requests, notices, complaints, written communications and other documents to be sub-

mitted to or filed with a FEA Regional Office in accordance with this chapter shall be directed to one of the following addresses, as appropriate:

REGION 1

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont; Regional Office, Federal Energy Administration, 150 Causeway Street, Boston, Mass. 02114.

REGION 2

New Jersey, New York, Puerto Rico, Virgin Islands; Regional Office, Federal Energy Administration, 26 Federal Plaza, New York, N.Y. 10007.

REGION 3

Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia; Regional Office, Federal Energy Administration, Federal Office Building, 1421 Cherry Street, Philadelphia, Pa. 19102.

REGION 4

Alabama, Canal Zone, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina; Regional Office, Federal Energy Administration, 1655 Peachtree Street NW., Atlanta, Ga. 30309.

REGION 5

Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin; Regional Office, Federal Energy Administration, 175 West Jackson Street, Chicago, Ill. 60604.

REGION 6

Arkansas, Louisiana, New Mexico, Oklahoma, Texas; Regional Office, Federal Energy Administration, 212 North Saint Paul Street, Dallas, Tex. 75201.

REGION 7

Iowa, Kansas, Missouri, Nebraska; Regional Office, Federal Energy Administration, Federal Office Building, 811 Grand Street, Kansas City, Mo. 64106.

REGION 8

Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming; Regional Office, Federal Energy Administration, Post Office Box 26247, Belmar Branch, Denver, Colo. 80226.

REGION 9

American Samoa, Arizon, California, Guam, Hawaii, Nevada, Trust Territory of the Pacific Islands; Regional Office, Federal Administration, 111 Pine Street, San Francisco, Calif. 94111.

REGION 10

Alaska, Idaho, Oregon, Washington; Regional Office, Federal Energy Administration, Federal Office Building, 909 First Avenue, Room 3098, Seattle, Wash. 98104.

§ 205.13 Where to file.

(a) Except as otherwise specifically provided in other subparts of this part, all documents to be filed with the FEA pursuant to this part shall be filed with the appropriate FEA Regional Office, except that all documents shall be filed with the FEA National Office that relate to:

(1) The allocation and pricing of crude oil pursuant to Subpart C of Part 211 and Part 212 of this chapter;

(2) Refinery yield controls pursuant to Subpart C of Part 211 of this chapter;

(3) The allocation and pricing of aviation fuel pursuant to Subpart H of Part 211 and Part 212 of this chapter, filed by civil air carriers and public air carriers;

(4) The allocation and pricing of residual fuel oil pursuant to Subpart I of Part 211 and Part 212 of this chapter, filed by electric utilities;

(5) The allocation and pricing of bunker fuel pursuant to Subparts G and I of Part 211 and Part 212 of this chapter, filed by members of the maritime shipping industry;

(6) The allocation and pricing of naphtha and gas oil pursuant to Subpart J of Part 211 and Part 212 of this chapter;

(7) The allocation and pricing of other products pursuant to Subpart K of Part 211 and Part 212 of this chapter;

(8) An application for an exemption under Subpart E of this part; and requests for a rulemaking proceeding under Subpart L of this part or for the issuance of a ruling under Subpart K of this part; and petitions to the Office of Private Grievances and Redress under Subpart R of this part; and

(9) The pricing of products pursuant to Part 212 of this chapter, filed by a refiner.

(b) Applications by end-users and wholesale purchasers for an allocation under the state set-aside system in accordance with § 211.17, shall be filed with the appropriate State Office.

(c) Applications to a State Office or FEA Regional Office shall be directed to the office located in the state or region in which the allocated product will be sold to the ultimate consumer. An applicant doing business in more than one state or region must apply separately to each state or region in which a product will be sold to the ultimate consumer, unless the State Offices or Regional Offices involved agree otherwise.

§ 205.14 Ratification of prior directives, orders and actions.

All interpretations, orders, notices of probable violation or other directives issued, all proceedings initiated, and all other actions taken in accordance with Part 205 as it existed prior to the effective date of this amendment, are hereby confirmed and ratified, and shall remain in full force and effect as if issued under this amended Part 205, unless or until they are altered, amended, modified or rescinded in accordance with the provisions of this part.

§ 205.15 Public docket room.

There shall be established at the FEA National Office, 12th and Pennsylvania Avenue, NW., Washington, D.C., a public docket room in which shall be made available for public inspection and copying:

(a) A list of all persons who have applied for an exception, an exemption, or an appeal, and digest of each application;

(b) All decisions and statements setting forth the relevant facts and legal basis of an order, with confidential information deleted, issued in response to an application for an exception or exemption or at the conclusion of an appeal;

(c) The comments received during each rulemaking proceeding, with a verbatim transcript of the public hearing if such public hearing was held; and

(d) Any other information required by statute to be made available for public inspection and copying, and any information that the FEA determines should be made available to the public.

Subpart B—Adjustment

§ 205.20 Purpose and scope.

This subpart establishes the procedures for filing an application for an adjustment or a request for FEA validation of an adjustment as provided in Part 211, and the procedures for the consideration of such applications and requests by the FEA.

§ 205.21 What to file.

(a) A person filing under this subpart shall file an "Application for Adjustment," which shall be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) The application shall be accompanied by the appropriate FEA form.

(c) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.22 Where to file.

(a) A wholesale purchaser and an end-user whose allocation level is a percentage of base period use and who is applying for an adjustment for changed circumstances shall submit an application for an adjustment to his supplier prior to its submission to the FEA. The supplier shall certify the information contained in the application and, within 10 days of receipt of the application, shall submit the certification and the application to the FEA office specified in § 205.13, at the address provided in § 205.12.

(b) A request for FEA validation of an application for adjustment for unusual growth in accordance with § 211.13(b) or increased current requirements in accordance with § 211.13(d) shall be filed with the appropriate Regional Office at the address provided in § 205.12.

§ 205.23 Notice.

(a) The FEA may serve notice on any person that the FEA determines will be aggrieved by the FEA action that written comments regarding the application for adjustment will be accepted if filed within 10 days of service of the notice.

(b) Any person submitting written comments to the FEA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the applicant. If a copy of the comments from which confidential information has been deleted was sent to the applicant, the person submitting com-

ments must inform the FEA of that fact. The person shall certify to the FEA that he has complied with the requirements of this paragraph.

§ 205.24 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested action; and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the application. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the application. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted.

(b) Each application submitted under this subpart shall also include the following information:

(1) Description of applicant's business or end use of the product;

(2) The anticipated use of the product in applicant's operation, including the present and anticipated needs of priority customers, if applicable;

(3) An estimate of the anticipated effect that denial of the requested adjustment would have on the applicant's operations;

(4) A description of the extent to which the applicant has investigated the possibilities of converting to an alternative fuel or product, and the applicant's conclusion as to the feasibility of making that conversion;

(5) The identification of any previous order relevant to the present application that has been issued to the applicant or to any person who controls or is controlled by the applicant; and

(6) The name, address, and telephone number of a government official who can verify the existence of the changed circumstances on which the application for adjustment is based.

§ 205.25 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may accept submissions from third parties relevant to any application provided that the applicant is afforded an opportunity to respond to all third party submissions. In evaluating an application, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference, if, in its discretion, it considers that such will advance its evaluation of the application.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the FEA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application with prejudice.

(b) *Criteria.* In considering an application for adjustment or a request for validation of an application for adjustment, the FEA shall apply the criteria provided in § 211.13.

§ 205.26 Decision and order.

(a) Upon consideration of the application or request and other relevant information received or obtained during the proceeding, the FEA shall issue an appropriate order.

(b) The order shall include a brief written statement summarizing the factual and legal basis upon which the order was issued. The order shall provide that any person aggrieved thereby may file an appeal with the FEA Office of Exceptions and Appeals or the appropriate Regional Office in accordance with Subpart H of this part.

(c) The FEA shall serve a copy of the order upon the applicant and any other person who participated in the proceeding and may serve a copy upon any other person who is aggrieved by such order.

§ 205.27 Timeliness.

(a) If the FEA fails to take action on any application filed under this subpart within 60 days of filing, or within 60 days of a conference on the application if a conference is held, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart; *Provided,* That the FEA may, in its discretion, notify an applicant prior to the time an appeal is filed under this paragraph that the matter remains under review and that no appeal may be filed under this paragraph for 30 days from the date of such notice is served upon the applicant.

(b) Notwithstanding paragraph (a) of this section, the FEA may temporarily suspend the running of the 60-day period if it finds that additional information is necessary or that the application was improperly filed. The temporary suspension shall remain in effect until the FEA serves upon the person notice that the additional information has been received and accepted or that the application has been properly filed. Unless otherwise provided in writing by the FEA, the 60-day period will resume running on the first day that is not a Saturday, Sunday, or Federal legal holiday and that follows the day on which the FEA serves upon the person the notice described in this paragraph.

§ 205.28 Appeal.

Any person aggrieved by an order issued by the FEA under this subpart may file an appeal with the FEA Office of Exceptions and Appeals or with the appropriate Regional Office in accordance with Subpart H of this part. The appeal shall be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart C—Assignment

§ 205.30 Purpose and scope.

This subpart establishes the procedures for the filing of an application for an assignment, other than an application for assignment under the state set-aside system.

§ 205.31 What to file.

(a) A person filing under this subpart shall file an "Application for Assignment," which shall be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) The application shall be accompanied by the appropriate FEA form.

(c) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.32 Where to file.

All applications for assignment shall be filed with the office specified in § 205.13, at the address provided in § 205.12.

§ 205.33 Notice.

(a) The FEA may serve notice on any person that the FEA determines will be aggrieved by the FEA action that written comments regarding the application for assignment will be accepted if filed within 10 days of service of the notice.

(b) Any person submitting written comments to the FEA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the applicant. If a copy of the comments from which confidential information has been deleted was sent to the applicant, the person submitting comments must inform the FEA of that fact. The person shall certify to the FEA that it has complied with the requirements of this paragraph.

§ 205.34 Contents.

(a) The application shall contain a full and complete statement of all revelant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested action; and a full discussion of the pertinent provisions and relevant facts contained in the documents

submitted with the application. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the application. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted. In addition to such information, the applicant shall include the following information:

(1) Description of applicant's business;

(2) The anticipated use of the allocated product in applicant's operation, including present and anticipated needs of priority customers, if applicable;

(3) An estimate of the anticipated effect that denial of the requested assignment would have on the applicant's operation;

(4) A description of the extent to which the applicant has investigated the possibilities of converting to an alternative fuel or product, and the applicant's conclusion as to the feasibility of making such conversion;

(5) A description of applicant's efforts to find other suppliers

(6) The identification of any previous assignment order relevant to the present application that has been issued to the applicant or to any person that controls or is controlled by the applicant.

(7) A statement that the applicant had no supplier during the requisite base period, or that the applicant's base period supplier or new supplier is unable to supply his requirements; and

(8) The identification of any persons who will be aggrieved by the FEA action sought, including potential suppliers.

§ 205.35 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may accept submissions from third parties relevant to any application provided that the applicant is afforded an opportunity to respond to all third party submissions. In evaluating an application, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference, if, in its discretion, it considers that a conference will advance its evaluation of the application.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the FEA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application with prejudice.

(b) *Criteria.* (1) An application for assignment may be granted in the situations specified in paragraph (c) of this section when such assignment will assure an allocation that to the maximum extent possible provides for—

(i) the protection of public health, safety, and welfare (including maintenance of residential heating, such as individual homes, apartments, and similar occupied dwelling units) and the national defense;

(ii) maintenance of all public services (including facilities and services provided by municipally, cooperatively, or investor owned utilities or by any State or local government or authority, and including transportation facilities and services which serve the public at large);

(iii) maintenance of the agricultural operations, including farming, ranching, dairy, and fishing activities, and services directly related thereto;

(iv) preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, non-branded independent marketers, and branded independent marketers;

(v) the allocation of suitable types, grades, and quality of crude oil to refineries in the United States to permit such refineries to operate at full capacity;

(vi) equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, non-branded independent marketers, branded independent marketers, and among all users;

(vii) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of, exploration for, and production or extraction of, fuels, and for required transportation related thereto;

(viii) economic efficiency; and

(ix) minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

(2) In the assignment of a base period volume to a wholesale purchaser, as defined in § 211.51, the FEA also shall consider the criteria provided in Part 211 and FEA guidelines, rulings and decisions on appeal.

(3) In connection with the assignment of a supplier or a base period volume to a person planning to construct a synthetic natural gas plant after May 1, 1974, or to expand an existing one, the FEA also shall consider the criteria provided in § 211.29 and FEA guidelines, rulings and decisions on appeal.

(4) In selecting a supplier for an assignment, the FEA shall consider the goal of equalizing allocation fractions among suppliers and the capability of the supplier to provide the product to an applicant on short notice.

(c) An assignment order may be issued only in the following circumstances, provided the criteria in paragraph (b) are satisfied:

(1) The sale or distribution of excess products of a supplier with an allocation fraction in excess of 1.0 (§ 211.10(g));

(2) In connection with a determination regarding the supplier's validation of wholesale purchaser-reseller's increased requirements (§ 211.12(d));

(3) An assignment of a base period volume when a supplier and new end-user are unable to agree on an allocation requirement (§ 211.12(f));

(4) An assignment of a base period volume of a new supplier to a wholesale purchaser or assignment of product when a base period supplier or new supplier is unable to supply sufficient amounts of an allocated product (§ 211.2 (e)(3));

(5) When circumstances warrant, assignment to end-users or suppliers of allocated products imported by an end-user or wholesale purchaser-consumer (§ 211.12(g);

(6) When an end-user or wholesale purchaser is denied access to a source of energy other than an allocated product, as provided in § 211.12(h);

(7) The distribution of excess inventories of crude oil or other allocated products (§ 211.22);

(8) An assignment of a base period volume to a person planning to award a construction contract to contractors (§ 211.27);

(9) An assignment of a base period volume and supplier to a person planning to construct a new synthetic natural gas plant after May 1, 1974 or commencing a plant expansion program (§ 211.29);

(10) To meet area imbalances that may occur in the supplies of any allocated products (§ 211.14); and

(11) In connection with the issuance of a remedial order (section 4 of the EPAA).

(d) If an assignment is sought in connection with circumstances not described in paragraph (c) of this section, application for such assignment should be filed with the FEA Office of Exceptions and Appeals at the address provided in § 205.12.

§ 205.36 Decision and order.

(a) Upon consideration of the application and other relevent information received or obtained during the proceeding, the FEA will issue an appropriate order.

(b) The order will include a brief written statement summarizing the factual and legal basis upon which the order was issued. The order will provide that any person aggrieved thereby may file an appeal with the FEA Office of Exceptions and Appeals or the appropriate Regional Office in accordance with Subpart I of this part.

(c) Prior to issuance of an assignment order, the FEA shall contact the proposed supplier for the purpose of determining the accuracy of the facts upon which it intends to base the proposed assignment order and the impact such order may have upon the proposed supplier's operations, and to give the supplier a reasonable opportunity to comment on the proposed order. To the extent a proposed supplier's comments present facts or other information that materially differs from those in the ap-

plication, the applicant shall be advised and given an opportunity to respond verbally. The notice and comment provided herein may be in writing if time permits.

(d) The FEA shall serve a copy of the order upon the person who thereby will be directed to supply the product or to establish a base period volume, the applicant and may serve a copy on any other person identified as one who will be aggrieved by said order.

§ 205.37 Timeliness.

(a) If the FEA fails to take action on any application filed under this subpart within 60 days of filing, or within 60 days of a conference on the application if a conference is held, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart; *Provided*, That the FEA may, in its discretion, notify the applicant prior to the time an appeal is filed under this paragraph that the matter remains under review and that no appeal may be filed under this paragraph for 30 days from the date of such notice is served upon the applicant.

(b) Notwithstanding paragraph (a) of this section, the FEA may temporarily suspend the running of the 60-day period if it finds that additional information is necessary or that the application was improperly filed. The temporary suspension shall remain in effect until the FEA serves upon the person notice that the additional information has been received and accepted or that the application has been properly filed. Unless otherwise provided in writing by the FEA, the 60-day period will resume running on the first day that is not a Saturday, Sunday, or Federal legal holiday and that follows the day on which the FEA serves upon the person the notice described in this paragraph.

§ 205.38 Appeal.

(a) Any person aggrieved by an order issued by the FEA under this subpart may file an appeal with the FEA Office of Exceptions and Appeals or with the appropriate Regional Office in accordance with Subpart H of this part. The appeal shall be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

(b) If an appeal is filed in connection with the issuance of an emergency assignment order in accordance with § 205.38, and subsequent to such appeal an assignment order from which said person also appeals is issued to the recipient of the emergency assignment order, the appeal from both the emergency assignment order and the subsequent assignment order shall be consolidated and considered in the same appellate proceeding.

§ 205.39 Emergency assignment.

(a) In certain circumstances and upon receipt of an application, the FEA may issue an emergency assignment order. The ordering of an emergency assignment shall occur only in dire circumstances and when it is not feasible to issue an assignment order that conforms to the FEA guidelines, including, but not limited to, the requirement that assignment orders for a month be issued, to the maximum extent possible, by the 15th of the preceding month. The "Application for Emergency Assignment" is to conform to the requirements of § 205.34, except that such requirements may be waived in whole or in part by the FEA for good cause shown. The application shall fully describe the emergency and its cause. An emergency assignment order shall have a duration of not longer than 60 days. It is intended that an emergency assignment order shall be a one-time order that pertains to a specific situation, and it may not be extended by issuance of another emergency assignment order. If the applicant anticipates the requirement for an assignment of longer than 60 days duration, he shall submit contemporaneously with the application for an emergency assignment, or as soon thereafter as feasible, an "Application for Assignment."

(b) An emergency assignment order shall conform to the requirements of § 205.35 and shall be issued only upon a finding of an emergency, which finding shall be stated in the order.

(c) The supplier selected shall be given notice of the emergency assignment order at least 24 hours in advance of its issuance.

(d) An emergency assignment order shall be appealable in accordance with § 205.38 of this subpart.

Subpart D—Exception

§ 205.50 Purpose and scope.

(a) This subpart establishes the procedures for applying for an exception from a regulation, ruling or generally applicable requirement based on an assertion of serious hardship or gross inequity and for the consideration of such application by the FEA.

(b) A request for an interpretation or other specific action which includes, or could be construed to include, an application for an exception may be treated solely as a request for an interpretation or other action, and processed as such by FEA.

(c) The filing of an application for an exception shall not constitute grounds for non-compliance with the requirements of the regulation, ruling or generally applicable requirement from which an exception is sought, unless a stay has been issued in accordance with Subpart I.

§ 205.51 What to file.

(a) A person filing under this subpart shall file an "Application for Exception," which shall be clearly labeled as such both on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.52 Where to file.

(a) Except as provided in paragraph (b) of this section, all applications for exception shall be filed with the Office of Exceptions and Appeals at the address provided in § 205.12.

(b) All applications for exception to Part 212 that relate to the retail sale of motor gasoline, heating oil, diesel fuel, or propane shall be filed with the appropriate Regional Office at the address provided in § 205.12.

§ 205.53 Notice.

(a) The applicant shall send by United States mail a copy of the application and any subsequent amendments or other documents relating to the application or a copy from which confidential information has been deleted in accordance with § 205.9(f), to each person who is reasonably ascertainable by the applicant as a person who will be aggrieved by the FEA action sought. The copy of the application shall be accompanied by a statement that the person may submit comments regarding the application to the FEA office with which the application was filed within 10 days. The application filed with the FEA shall include certification to the FEA that the applicant has complied with the requirements of this paragraph and shall include the names and addresses of each person to whom a copy of the application was sent.

(b) Notwithstanding the provisions of paragraph (a) of this section, if an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and possible to notify; and

(2) Include with the application a description of the persons or class or classes of persons to whom notice was not sent.

The FEA may require the applicant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable.

(c) The FEA may serve notice on any other person that the FEA determines will be aggrieved by the FEA action sought that written comments regarding the application will be acecpted if filed within 10 days of service of such notice.

(d) Any person submitting written comments to the FEA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the applicant. If a copy of the comments from which confidential information has been deleted was sent to the applicant, the person submitting comments must inform the FEA of that fact. The person shall certify to the

FEA that he has complied with the requirements of this paragraph.

(e) At regular intervals, the FEA shall publish a list of all persons who have applied for an exception under this subpart, with a brief description of the factual situation and the relief requested.

§ 205.54 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested action; and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the application. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the application. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted.

(b) The applicant shall state whether he requests or intends to request that there be a conference or hearing regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference or hearing is held when it will be most beneficial. The request and the FEA's determination regarding it shall be made in accordance with Subpart M of this part.

(c) The application shall include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the particular action sought therein.

(d) The application shall specify the exact nature and extent of the relief requested.

§ 205.55 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may accept submissions from third parties relevant to any application provided that the applicant is afforded an opportunity to respond to all third party submissions. In evaluating an application, the FEA may consider any other source of information. The FEA on its own initiative may convene a hearing or conference, if, in its discretion, it considers that such hearing or conference will advance its evaluation of the application.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request additional information is not submitted by the applicant, the FEA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application with prejudice.

(b) *Criteria.* (1) The FEA will only consider an application for an exception when it determines that an adjustment, assignment or interpretation would not afford appropriate relief.

(2) An application for an exception may be granted to alleviate or prevent serious hardship or gross inequity.

(3) An application for an exception will be decided in a manner which is, to the extent possible, consistent with the disposition of previous applications for exception.

(4) With regard to an exception from the provisions of Part 215, the criteria shall be those provided in such part.

§ 205.56 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the FEA shall issue an order granting or denying the application.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall provide that any person aggrieved thereby may file an appeal with the FEA Office of Exceptions and Appeals or the appropriate Regional Office in accordance with Subpart H of this part.

(c) The FEA shall serve a copy of the order upon the applicant and any other person who participated in the proceeding and may serve a copy upon any other person who is aggrieved by such order. A copy of each order, with such modification as is necessary to insure the confidentiality of information protected from disclosure under 18 U.S.C. 1905 and 5 U.S.C. 552, will be on file in the public docket room described in § 205.15. The Office of Exceptions and Appeals shall publish periodically a digest of all orders issued.

§ 205.57 Timeliness.

(a) If the FEA fails to take action on any application filed under this subpart within 60 days of filing, or within 60 days of a conference or hearing on the application if a conference or hearing is held, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart; *Provided*, That the FEA may, in its discretion, notify an applicant prior to the time an appeal is filed under this paragraph that the matter remains under review and that no appeal may be filed under this paragraph for 30 days from the date such notice is served upon the applicant.

(b) Notwithstanding paragraph (a) of this section, the FEA may temporarily suspend the running of the 60-day period if it finds that additional information is necessary or that the application was improperly filed. The temporary suspension shall remain in effect until the FEA serves upon the person notice that the additional information has been received and accepted or that the application has been properly filed. Unless otherwise provided in writing by the FEA, the 60-day period shall resume running on the first day that is not a Saturday, Sunday, or Federal legal holiday and that follows the day on which the FEA serves upon the person the notice described in this paragraph.

§ 205.58 Appeal.

Any person aggrieved by an order issued by the FEA under this subpart may file an appeal with the FEA Office of Exceptions and Appeals or with the appropriate Regional Office in accordance with Subpart H of this part. The appeal must be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart E—Exemption

§ 205.70 Purpose and scope.

This subpart establishes the procedures for filing an application for exemption and the consideration of such by the FEA. This subpart does not include the procedures for exemption of a product as provided in section 4(g) of the FPAA.

§ 205.71 Procedures.

(a) An exemption may be effected only by amendment to the regulations. Although an application for an exemption is a request for a rulemaking, the application is not subject to the procedures of Subpart L. If a rulemaking proceeding is convened, however, it shall be held in accordance with Subpart L.

(b) An application for an exemption must be submitted separate and apart from any other application, appeal, petition or other request submitted in accordance with this part. If an application for exemption is included with any other application, appeal, petition, or other request, the application for exemption will not be processed, nor will it be severed for separate consideration.

§ 205.72 What to file.

A person filing under this subpart shall file an "Application for Exemption," which shall be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

§ 205.73 Where to file.

An application for exemption shall be filed with the Office of Private Grievances and Redress at the address provided in § 205.12.

§ 205.74 Contents.

The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and the FEA action

sought. The application shall identify the part or parts, or subparts thereof, of this chapter from which the exemption is sought; describe the business or other reason that would justify such exemption; identify the persons or classes of persons and acts or transactions that would be aggrieved by such exemption and describe the adverse impact; describe the benefit to the person making the application, or others, that would result if the exemption were effected; and explain the reasons why the action sought by the application cannot be accomplished by any other proceeding provided in this part. Upon request, the applicant shall submit copies or relevant contracts, agreements, leases, instruments, and other documents that are representative of those that would be affected by the granting of the requested exemption.

§ 205.75 FEA evaluation.

(a) *Processing.* All applications for exemption shall be evaluated by FEA to determine if the institution of rulemaking is warranted and if the FEA action sought by the application could more appropriately be considered in any other proceeding provided by this part.

(b) *Criteria.* (1) Rulemaking proceedings for the purpose of considering an application for exemption will be instituted only if the FEA in its discretion determines that such proceeding would be appropriate. Among the factors that the FEA will evaluate in making a determination with respect to a rulemaking are:

(i) The impact that granting the exemption would have on the regulatory scheme and objectives;

(ii) The number of persons who would be exempted; and

(iii) The economic justification for such exemption.

(2) The FEA may summarily deny an application for exemption if:

(i) The exemption sought is not from a part or parts, or a subpart thereof, of this chapter;

(ii) The granting of an exemption to the person making the application would not have sufficient national impact, economic or otherwise, to warrant rulemaking proceedings for the purpose of considering an amendment to the regulation;

(iii) It is determined that the statutory criteria cannot be met; or

(iv) It is determined that another proceeding provided by this part is more appropriate.

§ 205.76 Decision and order.

(a) Upon consideration of the application and other relevant information obtained during the proceeding, the FEA shall issue an appropriate order. If the application is not denied, the order shall provide for publication of a notice of proposed rulemaking regarding the application in the FEDERAL REGISTER.

(b) The order shall include a written statement setting forth the relevant facts and legal basis for the decision. The order denying the application shall state that any person aggrieved thereby may file an appeal with Office of Exceptions and Appeals in accordance with Subpart H of this part.

§ 205.77 Timeliness.

(a) If the FEA fails to take action on any application filed under this subpart within 60 days of filing, or within 60 days of a conference on the application if a conference is held, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart; *Provided,* That the FEA may, in its discretion, notify an applicant prior to the time an appeal is filed under this paragraph that the matter remains under review and that no appeal may be filed under this paragraph for 30 days from the date of such notice is served upon the applicant.

(b) Notwithstanding paragraph (a) of this section, the FEA may temporarily suspend the running of the 60-day period if it finds that additional information is necessary or that the application was improperly filed. The temporary suspension shall remain in effect until the FEA serves upon the person notice that the additional information has been received and accepted or that the application has been properly filed, as appropriate. Unless otherwise provided in writing by the FEA, the 60-day period will resume running on the first day that is not a Saturday, Sunday, or Federal legal holiday and that follows the day on which the FEA serves upon the person the notice described in this paragraph.

§ 205.78 Appeal.

Any person aggrieved by an order issued by the FEA under this subpart that denies an application for exemption may file an appeal with the Office of Exceptions and Appeals in accordance with Subpart H of this part. The appeal must be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart F—Interpretation

§ 205.80 Purpose and scope.

(a) This subpart establishes the procedures for the filing of a formal request for an interpretation and for the consideration of such request by the FEA. Interpretations shall be in writing and shall only be issued by the FEA General Counsel or by a Regional Counsel. Responses, which may include verbal or written responses to general inquiries, to other than formal written requests for interpretation filed with the General Counsel or a Regional Counsel are not interpretations and merely provide general information.

(b) A request for interpretation that includes, or could be construed to include an application for an exception or an exemption may be treated solely as a request for interpretation and processed as such.

§ 205.81 What to file.

(a) A person filing under this subpart shall file a "request for interpretation," which shall be clearly labeled as such both on the request and on the outside of the envelope in which the request is transmitted, and shall be in writing and signed by the person filing the request. The person filing the request shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the person filing the request wishes to claim confidential treatment for any information contained in the request or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.82 Where to file.

A request for interpretation shall be filed with the General Counsel or with the appropriate Regional Counsel at the address provided in § 205.12.

§ 205.83 Contents.

(a) The request shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the request and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable) and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the request. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the request. When the request pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction must be submitted.

(b) The request for interpretation shall include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the particular interpretation sought therein.

§ 205.84 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in a request and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may accept submissions from third parties relevant to any request for interpretation provided that the person making the request is afforded an opportunity to respond to all third party submissions. In evaluating a request for interpretation the FEA may consider any other source of information. The FEA on its own initiative may convene a conference, if, in its discretion, it considers that such conference will advance its evaluation of the request.

(2) The FEA shall issue its interpretation on the basis of the information provided in the request, unless that information is supplemented by other information brought to the attention of the General Counsel or a Regional Counsel during the proceeding. The

interpretation shall, therefore, depend for its authority on the accuracy of the factual statement and may be relied upon only to the extent that the facts of the actual situation correspond to those upon which the interpretation was based.

(3) If the FEA determines that there is insufficient information upon which to base a decision and if upon request additional information is not submitted by the person requesting the interpretation, the FEA may refuse to issue an interpretation.

(b) *Criteria.* (1) The FEA shall base an interpretation on the FEAA and EPAA and the regulations and published rulings of the FEA as applied to the specific factual situation.

(2) The FEA shall take into consideration previously issued interpretations dealing with the same or a related issue.

§ 205.85 Decision and effect.

(a) Upon consideration of the request for interpretation and other relevant information received or obtained during the proceeding, the General Counsel or a Regional Counsel shall issue a written interpretation.

(b) The interpretation shall contain a statement of the information upon which it is based and a legal analysis of and conclusions regarding the application of rulings, regulations and other precedent to the situation presented in the request.

(c) Only those persons to whom an interpretation is specifically addressed and other persons upon whom the FEA serves the interpretation and who are directly involved in the same transaction or act may rely upon it. No person entitled to rely upon an interpretation shall be subject to sanctions or penalties stated in this chapter for any act made in reliance upon the interpretation, notwithstanding that the interpretation shall thereafter be declared by judicial or other competent authority to be invalid.

(d) An interpretation may be rescinded or modified at any time. Rescission or modification may be effected by notifying persons entitled to rely on the interpretation that it is rescinded or modified. This notification shall include a statement of the reasons for the recission or modification and, in the case of a modification, a restatement of the interpretation as modified.

(e) An interpretation is modified by a subsequent amendment to the regulations or ruling to the extent it is inconsistent with the amended regulation or ruling.

§ 205.86 Appeal.

Any person aggrieved by an interpretation issued by the FEA under this subpart may file an appeal with the FEA Office of Exceptions and Appeals or with the appropriate Regional Office in accordance with Subpart H of this part. The appeal must be filed within 30 days of service of the interpretation from which the appeal is taken. There has not been a exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart G—Other Proceedings

§ 205.90 Purpose and scope.

This subpart establishes the procedures for the filing of such other applications, petitions, or requests as may be required or permitted from time to time under the provisions of this chapter, but does not supplant any procedures presently provided for in this part, including petitions to the Office of Private Grievances and Redress filed in accordance with Subpart R of this part. This subpart specifically provides for applications by motor gasoline retail sales outlets in accordance with the provisions of § 211.106 and petitions to use multiple allocation fractions in accordance with the provisions of § 211.10(b).

§ 205.91 What to file.

(a) A person filing under this subpart shall file an "Application (petition or request, if applicable) for (identify action requested)," which shall be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the person wishes to claim confidential treatment for any information contained in the application, petition, request, or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.92 Where to file.

(a) All applications, petitions or requests not described in other subparts of this part shall be filed in accordance with any FEA forms and instructions that relate thereto. If no such forms and instructions have been issued by the FEA, all such applications, petitions or requests shall be filed with the FEA office specified in § 205.13, at the address provided in § 205.12.

(b) An application by a motor gasoline retail sales outlet in accordance with the provisions § 211.106 shall be filed with the Regional Office for the region in which the retail sales outlets are located. Applications which involve retail sales outlets located in more than one region shall be filed with the appropriate Regional Office in each affected region.

(c) An application to use multiple allocation fractions in accordance with the provisions of § 211.10(b) shall be filed with the FEA National Office at the address provided in § 205.12.

§ 205.93 Contents.

(a) Any application, petition or request filed under this subpart shall contain all the information that the FEA by regulation, ruling, form or other instruction may require.

(b) An application by a motor gasoline retail sales outlet in accordance with § 211.106 shall conform to the requirements of FEA Ruling 1974–13 and any future amendments to or modifications of that ruling.

§ 205.94 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application, petition or request and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may accept submissions from third parties relevant to any application, petition or request provided that the person who filed is afforded an opportunity to respond to all third party submissions. In evaluating an application, petition or request, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference, if, in its discretion, it considers that such conference will advance its evaluation of the application, petition or request.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the FEA may dismiss the application, petition or request without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application, petition or request with prejudice.

(b) *Criteria.* In considering an application, petition or request, the FEA will apply the criteria stated in Part 211 of this chapter.

§ 205.95 Decision and order.

(a) Upon consideration of the application, petition or request and other relevant information received or obtained during the proceeding, if FEA action is required, the FEA shall issue an appropriate order.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall provide that any person aggrieved thereby may file an appeal with the FEA Office of Exceptions and Appeals or the appropriate Regional Office in accordance with Subpart H of this part.

(c) The FEA shall serve a copy of the order upon the person who filed and any other person who participated in the proceeding and may serve a copy of the order upon any person who is aggrieved by said order.

§ 205.96 Timeliness.

(a) If the FEA fails to take action on any application filed under this subpart within 60 days of filing, or within 60 days of a conference on the application if a conference is held, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart; *Provided,* That the FEA may, in its discretion, notify the applicant prior to the time an appeal is filed under this paragraph that the matter remains under review and that no appeal may be filed under this paragraph for 30 days from the date of such notice is served upon the applicant.

(b) Notwithstanding paragraph (a) of this section, the FEA may temporarily suspend the running of the 60-day period if it finds that additional information is necessary or that the application was improperly filed. The temporary suspension shall remain in effect until the FEA serves upon the person notice that additional information has been received and accepted or that the application has been properly filed, as appropriate. Unless otherwise provided in writing by the FEA, the 60-day period will resume running on the first day that is not a Saturday, Sunday, or Federal legal holiday and that follows the day on which the FEA serves upon the person the notice described in this paragraph.

§ 205.97 Appeal.

Any person aggrieved by an order issued by the FEA under this subpart may file an appeal with the FEA Office of Exceptions and Appeals or with the appropriate Regional Office in accordance with Subpart H of this part. The appeal shall be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart H—Appeal

§ 205.100 Purpose and scope.

(a) This subpart establishes the procedures for the filing of an administrative appeal of FEA actions taken under Subparts B, C, D, E, F, G, J or O of this part and the consideration of such appeal by the FEA. Appeals of orders issued by State Offices shall be in accordance with Subpart R.

(b) A person who has appeared before the FEA in connection with a matter arising under Subparts B, C, D, E, F, G, J or O of this part has not exhausted his administrative remedies until an appeal has been filed under this subpart and an order granting or denying the appeal has been issued.

§ 205.101 Who may file.

Any person aggrieved by an order or interpretation issued by the FEA under Subparts B, C, D, E, F, G, J, or O of this part may file an appeal under this subpart.

§ 205.102 What to file.

(a) A person filing under this subpart shall file an "Appeal of Order" or an "Appeal of Interpretation," which shall be clearly labeled as such both on the appeal and on the outside of the envelope in which the appeal is transmitted, and shall be in writing and signed by the person filing the appeal. The appellant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the appellant wishes to claim confidential treatment for any information contained in the appeal or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.103 Where to file.

(a) When the order or interpretation upon which the appeal is based was issued by the FEA National Office, the appeal shall be filed with the Office of Exceptions and Appeals at the address provided in § 205.12.

(b) When the order or interpretation upon which the appeal is based was issued by a Regional Office, the appeal shall be filed with that Regional Office at the address provided in § 205.12.

§ 205.104 Notice.

(a) The appellant shall send by United States mail a copy of the appeal and any subsequent amendments or other documents relating to the appeal, or a copy from which confidential information has been deleted in accordance with § 205.9 (f), to each person who is reasonably ascertainable by the appellant as a person who will be aggrieved by the FEA action sought, including those who participated in the prior proceeding. The copy of the appeal shall be accompanied by a statement that the person may submit comments regarding the appeal to the FEA office with which the appeal was filed within 10 days. The appeal filed with the FEA shall include certification to the FEA that the appellant has complied with the requirements of this paragraph and shall include the names and addresses of each person to whom a copy of the appeal was sent.

(b) Notwithstanding the provisions of paragraph (a) this section, if an appellant determines that compliance with paragraph (a) would be impracticable, the appellant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and possible to notify; and

(2) Include with the appeal a description of the persons or class or classes of persons to whom notice was not sent.

The FEA may require the appellant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable.

(c) The FEA may serve notice on any other person that the FEA determines will be aggrieved by the FEA action sought that written comments regarding the appeal will be accepted if filed within 10 days of service of that notice.

(d) Any person submitting written comments to the FEA with respect to an appeal filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the appellant. If a copy of the comments from which confidential information has been deleted was sent to the appellant, the person submitting comments shall inform the FEA of that fact. The person shall certify to the FEA that it has complied with the requirements of this paragraph.

§ 205.105 Contents.

(a) The appeal shall contain a concise statement of grounds upon which it is sought and a description of the relief sought. It shall include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the appeal. If the appeal includes a request for relief based on significantly changed circumstances, there shall be a complete description of the events, acts, or transactions that comprise the significantly changed circumstances, and the appellant shall state why, if the significantly changed circumstance is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding. For purposes of this subpart, the term "significantly changed circumstances" shall mean:

(1) The discovery of material facts that were not known or could not have been known at the time of the proceeding;

(2) The discovery of a law, regulation, interpretation, ruling, order or decision on appeals and exceptions that was in effect at the time of the proceeding upon which the order or interpretation is based and which, if such had been made known to FEA, would have been relevant to the proceeding and would have substantially altered the outcome; or

(3) A substantial change in the facts or circumstances upon which an outstanding and continuing order or interpretation affecting the appellant was issued, which change has occurred during the interval between issuance of the order or interpretation and the date of the appeal and was caused by forces or circumstances beyond the control of the appellant.

(b) A copy of the order or interpretation that is the subject of the appeal shall be submitted with the appeal.

(c) The appellant shall state whether to the best of his knowledge the same or a related issue, act or transaction that is the subject of the appeal has been or presently is being considered or investigated by any FEA office, other Federal agency, department or instrumentality; or by a State Office, a state or municipal agency or court, or by any law enforcement agency; including, but not limited to, a consideration or investigation in connection with an FEA proceeding described in this part, other than the proceeding from which the appeal is taken. In addition, the appellant shall state whether contact has been made by the appellant or one acting on his behalf with any person who is employed by the FEA or any State Office subsequent to service of the order or interpretation that is being appealed with regard to the issue, act or transaction that is the subject of the appeal; the name of the person contacted; whether the contact was verbal or in writing; the nature and substance of the contact; and the date or dates of the contact. An appellant shall comply with this paragraph in lieu of § 205.9(e).

(d) The appellant shall state whether he requests or intends to request that there be a conference or hearing regarding the appeal. Any request not made

at the time the appeal is filed shall be made as soon thereafter as possible, to insure that the conference or hearing is held when it will be most beneficial. The request and the FEA's determination regarding it shall be made in accordance with Subpart M of this part.

§ 205.106 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an appeal and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may accept submissions from third parties relevant to any appeal provided that the appellant is afforded an opportunity to respond to all third party submissions. In evaluating an appeal, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference or hearing if, in its discretion, it considers that such conference or hearing will advance its evaluation of the appeal.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if, upon request, the necessary additional information was not submitted, the FEA may dismiss the appeal with leave to amend within a specified time. If the failure to supply additional information is repeated or willful, the FEA may dismiss the appeal with prejudice.

(3) *Failure to satisfy requirements.* (i) If the appellant fails to satisfy the requirements of paragraph (b)(1) of this section, the FEA may issue an order denying the appeal. The order shall state the grounds for the denial and a copy of the order shall be served upon the appellant and any other person who participated in the proceeding.

(ii) The order denying the appeal shall become a final order of the FEA, of which there may be judicial review within 10 days of its service upon the appellant, unless within such 10-day period an amendment to the appeal that corrects the deficiencies identified in the order is filed with the Office of Exceptions and Appeals or the appropriate Regional Office.

(iii) Within 10 days of the filing of such amendment, as provided in paragraph (b)(1) of this section, the FEA shall notify the appellant whether the amendment corrects the specified deficiencies. If the amendment does not correct the deficiencies, that notice shall be an order dismissing the amendment and denying the appeal. Such order shall be a final order of the FEA of which appellant may seek judicial review.

(b) *Criteria.* (1) An appeal may be summarily denied if:

(i) It is not filed in a timely manner, unless good cause is shown; or

(ii) It is defective on its face for failure to state, and to present facts and legal argument in support thereof, that the FEA action was erroneous in fact or in law, or that it was arbitrary or capricious.

(2) The FEA may deny any appeal if the appellant does not establish that:

(i) The appeal was filed by a person aggrieved by an FEA action;

(ii) The FEA's action was erroneous in fact or in law; or

(iii) The FEA's action was arbitrary or capricious. The denial of an appeal shall be a final order of FEA of which the appellant may seek judicial review.

§ 205.107 Decision and order.

(a) Upon consideration of the appeal and other relevant information received or obtained during the proceeding, the FEA will enter an appropriate order, which may include the modification of the order or interpretation that is the subject of the appeal.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order will state that it is a final order of which the appellant may seek judicial review.

(c) The FEA shall serve a copy of the order upon the appellant and any other person who participated in the proceeding and may serve a copy upon any other person who is aggrieved by such order.

(d) A copy of each order, with such modification as is necessary to insure the confidentiality of information protected from disclosure under 18 U.S.C. 1905 and 5 U.S.C. 552, will be filed in the public docket room described in § 205.15.

§ 205.108 Appeal of a remedial order.

The appeal of a remedial order shall be in accordance with the procedures stated in this subpart, except:

(a) The appeal must be filed within 10 days of the service of the remedial order; and

(b) If the appeal is of a remedial order that was issued subsequent to a notice of probable violation that relates to an order or interpretation previously issued by the FEA, no issues will be considered on appeal that were raised in that prior proceeding.

Subpart I—Stay

§ 205.120 Purpose and scope.

This subpart establishes the procedures for the application for and granting of a stay by the FEA. An application for a stay will only be considered:

(a) Incident to an appeal from an order of the FEA;

(b) Incident to an application for an exception from the application of any FEA regulations, rulings, or generally applicable requirements when the stay sought is of the same regulation, ruling or generally applicable requirement from which the exception is sought; or

(c) Pending judicial review.

All FEA orders, regulations, rulings, and generally applicable requirements shall be complied with unless and until an application for a stay is granted.

§ 205.121 What to file.

(a) A person filing under this subpart shall file an "Application for Stay," which shall be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 205.9 (f) shall apply.

§ 205.122 Where to file.

(a) An application for stay of an FEA order incident to an appeal from such order shall be filed with the Office of Exceptions and Appeals or with the appropriate Regional Office at the address provided in § 205.12.

(b) An application for stay of the application of any or all FEA regulations, rulings, or generally applicable requirements incident to an application for an exception therefrom shall be filed with the Office of Exceptions and Appeals or with the appropriate Regional Office as specified in § 205.52 at the address provided in § 205.12.

(c) An application for stay of an FEA order or of the application of any FEA regulations, rulings or generally applicable requirements pending judicial review shall be filed with the office that issued the order of which judicial review is sought.

§ 205.123 Notice.

(a) When administratively feasible, the FEA may notify each person who would be aggrieved by the FEA action sought that the applicant has filed for a stay and that the FEA will accept written comment on the application.

(b) Any person submitting written comments to the FEA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9 (f), to the applicant. If a copy of the comments from which confidential information has been deleted was sent to the applicant, the person submitting comments shall inform the FEA of that fact. The person shall certify to the FEA that it has complied with the requirements of this paragraph.

§ 205.124 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the application and to the FEA action sought. Such facts shall include, but not be limited to, all information that relates to the satisfaction of one or more of the criteria in § 205.125(b).

(b) The application shall include a description of the proceeding incident to which the stay is being sought. This description shall contain a discussion of all FEA actions relevant to the proceeding.

(c) The applicant shall state whether he requests or intends to request that there be a conference regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference is held when it will

be most beneficial. The request and the FEA's determination regarding it shall be made in accordance with Subpart M of this part.

§ 205.125 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may accept submissions from third parties relevant to any application provided that the applicant is afforded an opportunity to respond to all third party submissions. In evaluating an application, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference, if, in its discretion, it considers that such conference will advance its evaluation of the application.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request additional information is not submitted by the applicant, the FEA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application with prejudice.

(3) The FEA shall process applications for stay as expeditiously as possible. When administratively feasible, the FEA shall grant or deny the application for stay within 10 business days after receipt of the application.

(4) Notwithstanding the provision for notice to third parties in § 205.123(a), the FEA may make a decision on an application for stay prior to the receipt of written comments.

(b) *Criteria.* The grounds for granting a stay include, but are not limited to:

(1) A showing that irreparable injury will result in the event that the stay is denied;

(2) A showing that denial of the stay will result in a more immediate serious hardship or gross inequity to the applicant than to the other persons affected by the proceeding;

(3) A showing that it would be desirable for public policy or other reasons to preserve the status quo ante pending a decision on the merits of the appeal or exception; and

(4) A showing that it is impossible for the applicant to fulfill the requirements of the original order.

§ 205.126 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the FEA shall issue an order granting or denying the application.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the decision, and the terms and conditions of the stay.

(c) The FEA shall serve a copy of the order upon the applicant and any other person who participated in the proceeding and may serve a copy upon any other person who is aggrieved by such decision.

(d) The grant or denial of a stay is not an order of the FEA subject to administrative review.

(e) In its discretion and upon a determination that such is in accordance with the objectives of the regulations and the FEAA or EPAA, the FEA may order a stay on its own initiative.

Subpart J—Modification or Rescission

§ 205.130 Purpose and scope.

This subpart establishes the procedures for the filing of an application for modification or rescission of an FEA order or interpretation. An application for modification or rescission is a summary proceeding that will be initiated only if the criteria described in § 205.135(b) are satisfied.

§ 205.131 What to file.

(a) A person filing under this subpart shall file an "Application for Modification (or Rescission)", which shall be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.132 Where to file.

(a) When the order or interpretation sought to be modified or rescinded was issued by the FEA National Office, the application shall be filed with the Office of Exceptions and Appeals at the address provided in § 205.12.

(b) When the order or interpretation sought to be modified or rescinded was issued by a Regional Office, the application shall be filed with that Regional Office at the address provided in § 205.12.

§ 205.133 Notice.

(a) The applicant shall send by United States mail a copy of the application and any subsequent amendments or other documents relating to the application, from which confidential information has been deleted in accordance with § 205.9(f), to each person who is reasonably ascertainable by the applicant as a person who will be aggrieved by the FEA action sought, including persons who participated in the prior proceeding. The copy of the application shall be accompanied by a statement that the person may submit comments regarding the application to the FEA office with which the application was filed within 10 days. The application filed with the FEA shall include certification to the FEA that the applicant has complied with the requirements of this paragraph and shall include the names and addresses of each person to whom a copy of the application was sent.

(b) Notwithstanding paragraph (a) of this section, if an applicant determines that compliance with paragraph (a) would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and possible to notify; and

(2) Include with the application a description of the persons or class or classes of persons to whom notice was not sent.

The FEA may require the applicant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable.

(c) The FEA may serve notice on any other person that the FEA determines will be adversely affected by the FEA action sought that written comments regarding the application will be accepted if filed within 10 days of service of that notice.

(d) Any person submitting written comments to the FEA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the applicant. If a copy of the comments from which confidential information has been deleted was sent to the applicant, the person submitting comments must inform the FEA of that fact. The person shall certify to the FEA that it has complied with the requirements of this paragraph.

§ 205.134 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested action; and a full description of the pertinent provisions and relevant facts contained in the documents submitted with the application. Copies of all relevant contracts, agreements, leases, instruments, and other documents must be submitted with the application, including, but not limited to, a copy of the order or interpretation of which modification or rescission is sought. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted.

(b) The applicant shall state whether he requests or intends to request that there be a conference regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference is held when it will be most beneficial. The request and the FEA's determination regarding it shall be made in accordance with subpart M of this part.

(c) The applicant shall fully describe the events, acts, or transactions that comprise the significantly changed circumstances, as defined in § 205.135(b)(2), upon which the application is based.

The applicant shall state why, if the significantly changed circumstance is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding.

(d) The application shall include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the action sought therein.

§ 205.135 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may accept submissions from third parties relevant to any application for modification or rescission provided that the applicant is afforded an opportunity to respond to all third party submissions. In evaluating an application for modification or rescission, the FEA may convene a conference, if, in its discretion, it considers that such conference will advance its evaluation of the application.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the FEA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application with prejudice.

(3) *Failure to satisfy requirements.* (i) If the applicant fails to satisfy the requirements of paragraph (b) (1) of this section, the FEA shall issue an order denying the application. The order shall state the grounds for the denial.

(ii) The order denying the application shall become final within 10 days of its service upon the applicant, unless within such 10 day period an amendment to correct the deficiencies identified in the order is filed with the Office of Exceptions and Appeals or the appropriate Regional Office.

(iii) Within 10 days of the filing of such amendment, the FEA shall notify the applicant whether the amendment corrects the specified deficiencies. If the amendment does not correct the deficiencies, the notice shall be an order dismissing the amendment and denying the application. Such order shall be a final order of the FEA of which the applicant may seek judicial review.

(b) *Criteria.* (1) An application for modification or rescission of an order or interpretation shall be processed only if:

(i) The application demonstrates that it is based on significantly changed circumstances; and

(ii) The 30-day period within which a person may file an appeal has lapsed or, if an appeal has been filed, a final order has been issued.

(2) For purposes of this subpart, the term "significantly changed circumstances" shall mean:

(i) The discovery of material facts that were not known or could not have been known at the time of the proceeding and action upon which the application is based;

(ii) The discovery of a law, regulation, interpretation, ruling order or decision on appeal or exception that was in effect at the time of the proceeding upon which the application is based and which, if such had been made known to the FEA, would have been relevant to the proceeding and would have substantially altered the outcome; or

(iii) There has been a substantial change in the facts or circumstances upon which an outstanding and continuing order or interpretation of the FEA affecting the applicant was issued, which change has occurred during the interval between issuance of such order or interpretation and the date of the application and was caused by forces or circumstances beyond the control of the applicant.

§ 205.136 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the FEA shall issue an order granting or denying the application.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall state that it is a final order of which the applicant may seek judicial review.

(c) The FEA shall serve a copy of the order upon the applicant and any other person who participated in the proceeding and may serve a copy upon any other person who is aggrieved by such order.

§ 205.137 Timeliness.

(a) If the FEA fails to take action on any application filed under this subpart within 60 days of filing, or within 60 days of a conference on the application if a conference is held, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart; *Provided,* That the FEA may, in its discretion, notify an applicant prior to the time an appeal is filed under this paragraph that the matter remains under review and that no appeal may be filed under this paragraph for 30 days from the date of such notice is served upon the applicant.

(b) Notwithstanding paragraph (a) of this section, the FEA may temporarily suspend the running of the 60-day period if it finds that additional information is necessary or that the application was improperly filed. The temporary suspension shall remain in effect until the FEA serves upon the person notice that the additional information has been received and accepted or that the application has been properly filed, as appropriate. Unless otherwise provided in writing by the FEA, the 60-day period will resume running on the first day that is not a Saturday, Sunday, or Federal legal holiday and that follows the day on which the FEA serves upon the person the notice described in this paragraph.

§ 205.138 Appeal.

Any person aggrieved by an order issued by the FEA under this subpart may file an appeal with the FEA Office of Exceptions and Appeals or with the appropriate Regional Office in accordance with Subpart H of this part. The appeal must be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart K—Rulings

§ 205.150 Purpose and scope.

This subpart establishes the criteria for the issuance of interpretative rulings by the General Counsel. All rulings shall be published in the FEDERAL REGISTER. Any person is entitled to rely upon such ruling, to the extent provided in this subpart.

§ 205.151 Criteria for issuance.

(a) A ruling may be issued, in the discretion of the General Counsel, whenever there have been a substantial number of inquiries with regard to similar factual situations or a particular section of the regulations.

(b) The General Counsel may issue a ruling whenever it is determined that it will be of assistance to the public in applying the regulations to a specific situation.

§ 205.152 Modification or rescission.

(a) A ruling may be modified or rescinded by:

(1) Publication of the modification or rescission in the FEDERAL REGISTER; or

(2) A rulemaking proceeding in accordance with Subpart L of this part.

(b) Unless and until a ruling is modified or rescinded as provided in paragraph (a) of this section, no person shall be subject to sanctions or penalties for actions taken in reliance upon the ruling, notwithstanding that the ruling shall thereafter be declared by judicial or other competent authority to be invalid. Upon such declaration, no person shall be entitled to rely upon the ruling.

§ 205.153 Comments.

A written comment on or objection to a published ruling may be filed at any time with the General Counsel at the address specified in § 205.12.

§ 205.154 Appeal.

There is no administrative appeal of a ruling.

Subpart L—Rulemaking

§ 205.160 Purpose and scope.

(a) This subpart establishes the procedures that govern a rulemaking proceeding. The initiation of a rulemaking proceeding is within the sole discretion of the FEA.

(b) Rulemaking by the FEA shall be in accordance with the Administrative Procedure Act (5 U.S.C. § 551, *et seq.* (1970)) and the FEAA.

§ 205.161 What to file.

(a) *Comments in connection with a rulemaking.* Any comments filed in connection with a rulemaking shall be filed

in accordance with the instructions in the Notice of Proposed Rulemaking published in the FEDERAL REGISTER. Such comments shall be in writing and signed by the person filing them.

(b) *Other comments or request.* Any person may at any time file written comments regarding any FEA regulation or amendment thereto or, by letter, request that a rulemaking proceeding be instituted. Such comments or request shall be signed by the person filing them.

§ 205.162 Where to file.

All comments filed in connection with a rulemaking shall be submitted in accordance with the instructions in the Notice of Proposed Rulemaking. All other comments or a letter requesting a rulemaking shall be filed with the FEA General Counsel at the address provided in § 205.12.

Subpart M—Conferences, Hearings and Public Hearings

§ 205.170 Purpose and scope.

This subpart establishes the procedures for requesting and conducting an FEA conference, hearing, or public hearing. Such proceedings shall be convened in the discretion of the FEA, consistent with the requirements of the FEAA.

§ 205.171 Conferences.

(a) The FEA in its discretion may direct that a conference be convened, on its own initiative or upon request by a person, when it appears that such conference will materially advance the proceeding. The determination as to who may attend a conference convened under this subpart shall be in the discretion of the FEA, but a conference shall not be open to the public.

(b) A conference may be requested in connection with any proceeding of the FEA by any person who might be aggrieved by that proceeding. The request may be made in writing or verbally, but must include a specific showing as to why such conference will materially advance the proceeding. The request shall be addressed to the FEA office that is conducting the proceeding.

(c) A conference may only be convened after actual notice of the time, place, and nature of the conference is provided to the person who requested the conference.

(d) When a conference is convened in accordance with this section, each person may present views as to the issue or issues involved. Documentary evidence may be presented at the conference, but will be treated as if submitted in the regular course of the proceedings. A transcript of the conference will not usually be prepared. However, the FEA in its discretion may have a verbatim transcript prepared.

(e) Because a conference is solely for the exchange of views incident to a proceeding, there will be no formal reports or findings unless the FEA in its discretion determines that such would be advisable.

§ 205.172 Hearings.

(a) The FEA in its discretion may direct that a hearing be convened, on its own initiative or upon request by a person, when it appears that such hearing will materially advance the proceeding. The determination as to who may attend a hearing convened under this subpart shall be in the discretion of the FEA, but a hearing shall not be open to the public.

(b) A hearing may only be requested in connection with an application for an exception or an appeal. Such request may be by the applicant, appellant, or any other person who might be aggrieved by the FEA action sought. The request shall be in writing and shall include a specific showing as to why such hearing will materially advance the proceeding. The request shall be addressed to the FEA office that is considering the application for an exception or the appeal.

(c) The FEA will designate an agency official to conduct the hearing, and will specify the time and place for the hearing.

(d) A hearing may only be convened after actual notice of the time, place, and nature of the hearing is provided both to the applicant or appellant and to all persons whom the FEA determines will be aggrieved by the FEA action involved. The notice shall include, as appropriate:

(1) A statement that such person may participate in the hearing; or

(2) A statement that such person may request a separate conference or hearing regarding the application or appeal.

(e) When a hearing is convened in accordance with this section, each person may present views as to the issue or issues involved. Documentary evidence may be presented at the hearing, but will be treated as if submitted in the regular course of the proceedings. A transcript of the hearing will not usually be prepared. However, the FEA in its discretion may have a verbatim transcript prepared.

(f) The official conducting the hearing may administer oaths and affirmations, rule on the presentation of information, receive relevant information, dispose of procedural requests, determine the format of the hearing, and otherwise regulate the course of the hearing.

(g) Because a hearing is solely for the exchange of views incident to a proceeding, there will be no formal reports or findings unless the FEA in its discretion determines that such would be advisable.

§ 205.173 Public hearings.

(a) A public hearing shall be convened incident to a rulemaking:

(1) When the proposed rule or regulation is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses; or

(2) When the FEA determines that a public hearing would materially advance the consideration of the issue. A public hearing may be requested by any interested person in connection with a rulemaking proceeding, but shall only be convened on the initiative of the FEA.

(b) A public hearing may be convened incident to any proceeding when the FEA in its discretion determines that such public hearing would materially advance its consideration of the issue.

(c) A public hearing may only be convened after publication of a notice in the FEDERAL REGISTER, which shall include a statement of the time, place, and nature of the public hearing.

(d) Interested persons may file a request to participate in the public hearing in accordance with the instructions in the notice published in the FEDERAL REGISTER. The request shall be in writing and signed by the person making the request. It shall include a description of the person's interest in the issue or issues involved and of the anticipated content of the presentation. It shall also contain a statement explaining why the person would be an appropriate spokes for the particular view expressed.

(e) The FEA shall appoint a presiding officer to conduct the public hearing. An agenda shall be prepared that shall provide, to the extent possible, for the presentation of all relevant views by competent spokes.

(f) A verbatim transcript shall be made of the hearing. The transcript, together with any written comments submitted in the course of the proceeding, shall be made available for public inspection and copying in the public docket room, as provided in § 205.15.

(g) The information presented at the public hearing, together with the written comments submitted and other relevant information developed during the course of the proceeding, shall provide the basis for the FEA decision.

Subpart N—Complaints

§ 205.180 Purpose and scope.

This subpart establishes the procedures for the filing and consideration of complaints relating to alleged violations of the general regulations of Part 210, the allocation regulations of Part 211, the price regulations of Part 212, and/or the low sulphur regulations of Part 215, or any ruling or order issued thereunder.

§ 205.181 What to file.

A person filing under this subpart shall file a "Complaint," which shall be clearly labeled as such both on the complaint and on the outside of the envelope in which the complaint is transmitted, and shall be in writing and signed by the person filing the complaint. The complainant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart. Verbal complaints that otherwise satisfy the requirements of this subpart will be accepted, but written verification may be requested by the FEA.

§ 205.182 Where to file.

A complaint shall be filed with the FEA office specified in § 205.13 at the address provided in § 205.12.

§ 205.183 Contents.

The complaint shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the complaint and to the FEA action sought. Such facts shall include the names and addresses of all persons involved (if reasonably ascertainable) and a description of the events

that led to the complaint. It shall include a statement describing the regulation, ruling, order or interpretation that allegedly has been violated.

§ 205.184 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in a complaint and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may accept submissions relevant to a complaint from third parties to the proceeding. In evaluating a complaint, the FEA may consider any other source of information. The FEA on its own initiative may order a conference if, in its discretion, it considers such conference will advance its evaluation of the complaint.

(2) Information received in the investigation of a complaint, including the identity of the complainant and any other person who provides information during the proceeding, shall, where necessary, remain confidential under the investigatory file exception to public disclosure.

(b) *Criteria.* In evaluating a complaint, the FEA shall consider all information submitted in accordance with § 205.183, as well as information obtained pursuant to paragraph (a) of this section. The FEA shall evaluate such information and apply all relevant regulations, rulings and orders to the facts presented to determine whether or not there has been a violation.

§ 205.185 Decision.

After consideration of a complaint and other relevant information received or obtained during the proceeding, the FEA may:

(a) Issue a notice of probable violation or remedial order for immediate compliance in accordance with the provisions of Subpart O of this part:

(b) Determine that no violation has occurred or that a notice of probable violation or a remedial order for immediate compliance would not be appropriate; or

(c) Take such other action as it deems appropriate.

Subpart O—Notice of Probable Violation and Remedial Order

§ 205.190 Purpose and scope.

(a) This subpart establishes the procedures for determining the nature and extent of violations of the FEA regulations and the procedures for issuance of a notice of probable violation, a remedial order or a remedial order for immediate compliance.

(b) When any report required by the FEA or any audit or investigation discloses, or the FEA otherwise discovers, that there is reason to believe a violation of any provision of this chapter, or any order issued thereunder, has occurred, is continuing or is about to occur, the FEA may conduct proceeedings to determine the nature and extent of the violation and may issue a remedial order thereafter. The FEA may commence such proceeding by serving a notice of probable violation or by issuing a remedial order for immediate compliance.

§ 205.191 Notice of probable violation.

(a) The FEA may begin a proceeding under this subpart by issuing a notice of probable violation if the FEA has reason to believe that a violation has occurred, is continuing, or is about to occur.

(b) Within 20 days of the issuance of a notice of probable violation, the person to whom the notice is issued may file a reply with the FEA office that issued the notice of probable violation at the address provided in § 205.12. The FEA may extend the 20-day period for good cause shown.

(c) The reply shall be in writing and signed by the person filing it. The reply shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the notice of probable violation. Such facts shall include a complete statement of the business or other reasons that justify the act or transaction, if appropriate; a detailed description of the act or transaction; and a full discussion of the pertinent provisions and relevant facts reflected in any documents submitted with the reply. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the reply. When the notice of probable violation pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information regarding the entire transaction shall be submitted.

(d) The reply shall include a discussion of all relevant authorities, including, but not limited to FEA rulings, regulations, interpretations, and decisions on appeals and exceptions relied upon to support the particular position taken.

(e) The reply should indicate whether the person requests or intends to request a conference regarding the notice. Any request not made at the time of the reply shall be made as soon thereafter as possible to insure that the conference is held when it will be most beneficial. A request for a conference must conform to the requirements of Subpart M of this part.

(f) If a person has not filed a reply with the FEA within the 20-day period provided, and the FEA has not extended the 20-day period, the person shall be deemed to have conceded the accuracy of the factual allegations and legal conclusions stated in the notice of probable violation.

(g) If the FEA finds, after the 20-day period provided in § 205.191(b), that no violation has occurred, is continuing, or is about to occur, or that for any reason the issuance of a remedial order would not be appropriate, it shall, notify, in writing, the person to whom a notice of probable violation has been issued that the notice is rescinded.

§ 205.192 Remedial order.

(a) If the FEA finds, after the 20-day period provided in § 205.191(b), that a violation has occurred, is continuing, or is about to occur, the FEA may issue a remedial order. The order shall include a written opinion setting forth the relevant facts and the legal basis of the remedial order.

(b) A remedial order issued under this section shall be effective upon issuance, in accordance with its terms, until stayed, suspended, modified, or rescinded. A remedial order shall remain in effect notwithstanding the filing of an application to modify or rescind it under Subpart J.

(c) A remedial order may be referred at any time to the Department of Justice for appropriate action in accordance with Subpart P.

§ 205.193 Remedial order for immediate compliance.

(a) Notwithstanding the provisions of §§ 205.191 and 205.192, the FEA may issue a remedial order for immediate compliance, which shall be effective upon issuance and until rescinded or suspended, if it finds:

(1) There is a strong probability that a violation has occurred, is continuing or is about to occur;

(2) Irreparable harm will occur unless the violation is remedied immediately; and

(3) The public interest requires the avoidance of such irreparable harm through immediate compliance and waiver of the procedures afforded under §§ 205.191 and 205.192.

(b) A remedial order for immediate compliance shall be served promptly upon the person against whom such order is issued by telex or telegram, with a copy served by registered or certified mail. The copy shall contain a written statement of the relevant facts and the legal basis for the remedial order for immediate compliance, including the findings required by paragraph (a) of this section.

(c) The FEA may rescind or suspend a remedial order for immediate compliance if it appears that the criteria set forth in paragraph (a) of this section are no longer satisfied. When appropriate, however, such a suspension or rescission may be accompanied by a notice of probable violation issued under § 205.191.

(d) If at any time in the course of a proceeding commenced by a notice of probable violation the criteria set forth in paragraph (a) of this section are satisfied, the FEA may issue a remedial order for immediate compliance, even if the 20-day period for reply specified in § 205.191(b) has not expired.

(e) At any time after a remedial order for immediate compliance has become effective, the FEA may refer such order to the Department of Justice for appropriate action in accordance with Subpart P.

§ 205.194 Remedies.

A remedial order or a remedial order for immediate compliance may require the person to whom it is directed to roll back prices, to refund amounts paid to such person that are in excess of the amount permitted under Part 212, or to take such other action as the FEA determines is necessary to eliminate or to compensate for the effects of a violation.

§ 205.195 Appeal.

(a) No notice of probable violation issued pursuant to this subpart shall be deemed to be an action of which there

may be an administrative appeal pursuant to Subpart H.

(b) Any person to whom a remedial order or a remedial order for immediate compliance is issued under this subpart may file an appeal with the FEA Office of Exceptions and Appeals or with the appropriate Regional Office in accordance with Subpart H of this part. The appeal must be filed within 10 days of service of the order from which the appeal is taken.

Subpart P—Violations, Sanctions and Judicial Actions

§ 205.200 Violations.

Any practice which circumvents or contravenes or results in a circumvention or contravention of the requirements of any provision of this chapter or any order issued pursuant thereto is a violation of the FEA regulations stated in this chapter.

§ 205.201 Sanctions.

(a) *General.* Any person who violates any provision of this chapter or any order issued pursuant thereto shall be subject to penalties and sanctions as provided herein.

(1) The provisions herein for penalties and sanctions shall be deemed cumulative and not mutually exclusive.

(2) Each day that a violation of the provisions of this chapter or any order issued pursuant thereto continues shall be deemed to constitute a separate violation within the meaning of the provisions of this chapter relating to criminal fines and civil penalties.

(b) *Criminal Penalties.* Any person who willfully violates any provision of this chapter or any order issued pursuant thereto shall be subject to a fine of not more than $5,000 for each violation. Criminal violations shall be prosecuted by the Department of Justice upon referral by the FEA.

(c) *Civil Penalties.* Any person who violates any provision of this chapter or any order issued pursuant thereto shall be subject to a civil penalty of not more than $2,500 for each violation. Upon referral by the FEA, the imposition and collection of civil penalties may be undertaken by the Department of Justice. When the FEA considers it to be appropriate or advisable, the FEA may compromise and settle and collect civil penalties.

(d) *Other Penalties.* Willful concealment of material facts, or false or fictitious or fraudulent statements or representations, or willful use of any false writing or document containing false, fictitious or fraudulent statements pertaining to matters within the scope of the FPAA or FEAA by any person shall subject such person to the criminal penalties provided in 18 U.S.C. 1001 (1970).

§ 205.202 Injunctions.

Whenever it appears to the Administrator of the FEA, or his delegate, that any person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of any regulation or order issued under this chapter, the Administrator, or his delegate, may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices and, upon a proper showing, a temporary restraining order or a preliminary restraining order or a preliminary or permanent injunction shall be granted without bond. The relief sought may include a mandatory injunction commanding any person to comply with such order or regulation, or the return of money received in violation of any such order or regulation.

Subpart Q—Application for State Set-Aside

§ 205.210 Purpose and scope.

This subpart establishes the procedures that govern applications for assignment under the state set-aside system as provided in Part 211.

§ 205.211 Who may apply.

An application for assignment from the state set-aside system, in accordance with § 211.17, may be filed by a wholesale purchaser-consumer or an end-user, as defined in § 211.51, to meet a hardship or emergency requirement. An application for assignment also may be filed by a wholesale purchaser-reseller, as defined in § 211.51, who will supply such wholesale purchaser-consumers and end-users.

§ 205.212 What to file.

(a) A person filing under this subpart shall file an "Application for Assignment," which shall be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

(c) The application shall be accompanied by the appropriate State Office or FEA form.

§ 205.213 Where to file.

All applications for assignment shall be filed with the State Office that is located in the state in which the product will be sold to the ultimate consumer.

§ 205.214 Notice.

(a) The State Office may serve notice on any person that it determines will be aggrieved by the assignment that written comments regarding the application will be accepted if filed within 10 days of service of the notice.

(b) Any person submitting written comments to a State Office with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the applicant. If a copy of the comments from which confidential information has been deleted was sent to the applicant, the person submitting comments must inform the State Office of that fact. The person shall certify to the State Office that it has complied with the requirements of this paragraph.

§ 205.215 Contents.

The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application for assignment. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the required action; and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the application. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the application. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted. In addition to such information, the applicant shall include the following information:

(a) Description of applicant's business;

(b) The anticipated use of the product, including present and anticipated needs of priority customers, if applicable;

(c) An estimate of the anticipated effect that denial of the requested assignment would have on the applicant's operations;

(d) A description of applicant's efforts to find other suppliers;

(e) The identification of any previous assignment order relevant to the present application issued to the applicant or to any person that controls or is controlled by the applicant;

(f) A statement that the applicant's base period supplier or new supplier is unable to supply his requirements or, if the applicant does not have a supplier, a statement that he has contacted two suppliers which could supply the allocated product and the identification of those suppliers; and

(g) The identification of any persons who will be aggrieved by the assignment;

(h) If the application is for release of part or all of a prime supplier's set-aside volume for the purpose of rectifying an intra-state supply imbalance, as provided in § 211.17(h), the applicant shall provide in addition to the other information required by this section, a description of the supply imbalance and its effect, the source of the data upon which the assertion of the supply imbalance is based and an estimate of the quantity of allocated product that is necessary to correct the imbalance.

§ 205.216 State Office evaluation.

(a) *Processing.* (1) The State Office may initiate an investigation of any statement in an application and utilize

in its evaluation any relevant facts obtained by such investigation. The State Office may accept submissions from third parties relevant to any application provided that the applicant is afforded an opportunity to respond to all third party submissions. In evaluating an application, the State Office may consider any other source of information. The State Office on its own initiative may convene a conference, if, in its discretion, it considers that a conference will advance its evaluation of the application.

(2) If the State Office determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the State Office may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the State Office may dismiss the application with prejudice.

(b) *Criteria.* (1) There shall be assignments only to persons demonstrating hardship or emergency requirements (or to wholesale purchaser-resellers who will supply such persons) with respect to propane, middle distillate, motor gasoline and residual fuel oil (except that used by utilities or as bunker fuel for maritime shipping),

(2) Assignment orders issued by a State Office to correct intra-state supply imbalances, as provided in § 211.17(h), shall only provide for the release of a quantity of a prime supplier's set-aside volume sufficient to correct the imbalance.

(3) Any assignment ordered by a State Office shall conform to the requirements of section 4(b)(1) of the EPAA.

§ 205.217 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the State Office shall issue an order denying or granting the application.

(b) The order shall include a brief written statement summarizing the factual and legal basis upon which the order was issued. The order shall provide that any person aggrieved thereby may file an appeal with the State Office in accordance with the procedures of such office.

(c) The order shall state that it is effective upon service to the prime supplier's State representative or the prime supplier, if there has been no state representative designated and shall expire within 10 days of its issuance unless the applicant presents his copy of the assignment order to the prime supplier or a designated local representative of such prime supplier within those 10 days.

(d) The State Office shall serve a copy of the order upon the person directed to supply the product, the prime suppliers' State representative, the applicant and any other person identified as one who will be aggrieved by said order.

(e) Prior to issuance of an assignment order, the State Office, to the maximum extent feasible, shall notify the prime supplier or the prime supplier's State representative of the order's impending issuance.

§ 205.218 Timeliness.

(a) If the State Office fails to take action on any application filed under this subpart within 60 days of filing, or within 60 days of a conference or hearing on the application if a conference or hearing is held, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart; *Provided*, That the State Office may, in its discretion, notify an applicant prior to the time an appeal is filed under this paragraph that the matter remains under review and that no appeal may be filed under this paragraph for 30 days from the date of such notice is served upon the applicant.

(b) Notwithstanding paragraph (a) of this section, the State Office may temporarily suspend the running of the 60-day period if it finds that additional information is necessary or the application was improperly filed. The temporary suspension shall remain in effect until the State Office serves upon the person notice that the additional information has been received and accepted or that the appropriate. Unless otherwise provided in writing by the State Office, the 60-day period shall resume running on the first day that is not a Saturday, Sunday, or Federal legal holiday and that follows the day on which the State Office serves upon the person the notice described in this paragraph.

§ 205.219 Appeal.

Any person aggrieved by an assignment order issued by the State Office may file an appeal with the State Office in accordance with the procedures established by such office. The appeal shall be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

§ 205.220 Establishment of procedures.

(a) The establishment of procedures for the appeal of orders of assignment, the stay of such orders, or any other procedures shall be conducted in a manner designed to give as much notice of the proceedings and as much opportunity for participation therein as is feasible. The notice of a proposal to establish procedures shall be published in a sufficient number of newspapers of statewide circulation calculated to receive the widest possible attention, shall be posted in a prominent location in the State Office and shall be widely circulated within the state by other appropriate methods. Any procedures established shall provide an opportunity for interested persons to present their views, including oral presentations, at least ten days before the procedures become effective.

(b) Any appellate procedures established shall provide, at a minimum, for notice to persons aggrieved by the order that is the subject of the appeal, a final order that signals the exhaustion of administrative remedies and fully states the facts and legal basis for the order, and mandatory service upon persons who participated in the appellate proceeding and permissive service upon any other person aggrieved by it.

Subpart R—Office of Private Grievances and Redress

§ 205.230 Purpose and scope.

(a) This subpart establishes the procedures for the FEA Office of Private Grievances and Redress.

(b) The Office shall receive and consider petitions that seek special redress, relief or other extraordinary assistance apart from or in addition to the proceedings stated in this part. Such petitions shall include those seeking special assistance based on an assertion that the FEA or a State Office is not complying with the FEAA, EPAA, FEA regulations, orders or rulings, or otherwise.

(c) The Office also shall receive applications for exemption filed in accordance with Subpart E of this part. Such applications shall be processed by the Office in accordance with that subpart. Therefore plication has been properly filed, as apthe procedures provided in this Subpart R shall only be applicable to "Petitions for Special Redress or Other Relief."

§ 205.231 Who may file.

Any person aggrieved by the regulations stated in 10 CFR Chapter II may file a petition under this subpart.

§ 205.232 What to file.

The person aggrieved shall file a "Petition for Special Redress or Other Relief," which shall be clearly labeled as such both on the petition and on the outside of the envelope in which it is transmitted, and shall be in writing and signed by the person filing it. The petition shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

§ 205.233 Where to file.

A petition shall be filed with the FEA National Office at the address provided in § 205.12.

§ 205.234 Notice.

(a) The person filing the petition, except a petition that asserts that the FEA or a State Office is not complying with the FEAA, EPAA, FEA regulations, orders or rulings or otherwise, shall send by United States mail a copy of the petition and any subsequent amendments or other documents relating to the petition, from which confidential information has been deleted in accordance with § 205.9(f), to each person who is reasonably ascertainable by the petitioner as a person who will be aggrieved by the FEA action sought. The copy of the petition shall be accompanied by a statement that the person may submit comments regarding the petition to the Office of Private Grievances and Redress within 10 days. The copy filed with the Office shall include certification to the FEA that the requirements of this paragraph have been complied with and shall include the names and addresses of each person to whom a copy of the petition was sent.

(b) Notwithstanding the provisions of paragraph (a) of this section, if the petitioner determines that compliance with paragraph (a) of this section would be impracticable, that person shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and possible to notify; and

(2) Include with the petition a description of the persons or class or classes of persons to whom notice was not sent. The FEA may require the petitioner to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable.

(c) The FEA shall serve notice on any other person that the FEA determines will be aggrieved by the FEA action sought that written comments regarding the petition will be accepted if filed within 10 days of service of that notice.

(d) Any person submitting written comments to the FEA regarding a petition filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the petitioner. If a copy of the comments from which confidential information has been deleted was sent to the petitioner, the person submitting comments must inform the FEA of that fact. The person shall certify to the FEA that it has complied with the requirements of this paragraph.

§ 205.235 Contents.

The petition shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the petition and to the FEA action sought. Such facts shall include, but not be limited to, the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction, if applicable; a description of the acts or transactions that would be affected by the requested action; a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the petition, and an explanation of how the petitioner is aggrieved by the regulation. Copies of all relevant contracts, agreements, leases, instruments, and other documents must be submitted with the request. When the petition pertains to only one step of a larger integrated transaction, the fact, circumstances, and other relevant information pertaining to the entire transaction must be submitted.

§ 205.236 FEA evaluation of request.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in a petition and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may accept submissions from third parties relevant to any petition provided that the petitioner is afforded an opportunity to respond to all third party submissions. In evaluating a petition, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference, if, in its discretion, it considers that such will advance its evaluation of the petition.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if, upon request, the necessary additional information is not submitted, the FEA may dismiss the petition without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the petition with prejudice.

(3) If appropriate, the FEA may, in its discretion convene a conference or hearing with respect to the petition.

(b) *Criteria.* (1) The FEA will dismiss without prejudice a "Petition for Special Redress or Other Relief" if it determines that another more appropriate proceeding is provided by this part. Upon that determination, the Office will transmit the petition to the FEA office responsible for such other proceeding and the petition thereafter will be processed as an application or request for such other FEA action. The petitioner shall be given a reasonable period of time to conform the petition to the procedural requirements of the other proceeding, if necessary.

(2) The FEA will dismiss with prejudice a "Petition for Special Redress or Other Relief" filed by a person who has exhausted his administrative remedies with respect to any proceeding provided by this part, as provided in Subpart H, and received a final order therefrom; and, similarly, will dismiss with prejudice such petition if filed by a person who has not exhausted his administrative remedies.

§ 205.237 Decision and response.

(a) Upon consideration of the petition and other relevant information received or obtained during the proceeding, the FEA will issue an order granting or denying the petition, excepting a petition regarding the FEA or a State Office. The latter petition will be considered to be advice only and no order shall be issued in response thereto.

(b) The order shall include a written statement setting forth the relevant facts and legal basis for the order. Said order shall state that it is a final order of which the petitioner may seek judicial review.

PART 210—GENERAL ALLOCATION AND PRICE RULES

Subpart F [Deleted]

2. Part 210 of this chapter is amended by deleting Subpart F—*Violations, Sanctions and Judicial Action* in its entirety.

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